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TRUSTEE

AND

POST OFFICE SAVINGS BANKS

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THE LAW
RELATING TO TRUSTEE
AND
POST-OFFICE SAVINGS BANKS

WITH NOTES OF

Decisions and Awards

MADE BY THE BARRISTER AND THE REGISTRAR
OF FRIENDLY SOCIETIES

BY

URQUHART A. FORBES
OF LINCOLN'S INN, ESQ., BARRISTER-AT-LAW

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1878

THIS BOOK

ON A SUBJECT MATERIAL TO THE INTERESTS OF THOSE CLASSES

IN WHOM HE HAS THROUGHOUT LIFE MANIFESTED

A DEEP AND ACTIVE INTEREST

IS DEDICATED

(BY PERMISSION)

TO

JOHN MALCOLM LUDLOW, ESQ

CHIEF REGISTRAR OF FRIENDLY SOCIETIES

IN AFFECTIONATE REMEMBRANCE OF MUCH KINDLY

ASSISTANCE

PREFACE.

THE changes introduced into the Law relating to Savings Banks by the Legislation of the last few years, and more particularly by the Savings Bank Barrister Act 1876 (39 & 40 Vict. c. 52), have induced the present writer to think that a manual on the subject may prove useful both to the trustees and managers of such institutions and to depositors. He has also been led to this conclusion by the fact that the works now in existence are in many respects out of date. Of these the most important are: 'A Practical Treatise on Savings Banks,' by Mr. Arthur Scratchley, M.A., of the Inner Temple, and 'The Law Relating to Savings Banks,' by the late Mr. Tidd Pratt, Registrar of Friendly Societies. The former work, though containing a great deal of most valuable information with regard to the financial points of the system (and especially with regard to its working abroad), would seem hardly sufficiently simple to serve as a guide in matters of every day

practice, and was moreover written some fifteen years since. The last published (the eighth) edition of the work of Mr. Pratt is of an almost equally early date (1863), and is virtually confined to the reproduction of statutory matter.

The present writer has had the advantage of being employed for a time under the present Chief Registrar of Friendly Societies, and having had access to the records kept in the office of the awards made in Savings Bank matters from the time of Mr. Tidd Pratt, as well as of the opinions given by the present Chief Registrar before the passing of the Savings Banks Barrister Act, he has embodied the principal ones among these as notes to the present volume. These, he trusts, will prove all the more useful to the trustees of Savings Banks, that, since the transfer to the Solicitor to the Treasury of the functions of adviser to the National Debt Commissioners, formerly vested in the Barrister appointed to certify the rules of Savings Banks, it is understood that that officer has not felt himself bound to afford to trustees the gratuitous advice in Savings Bank matters which it had grown up to be a custom for the Barrister to supply.

It was hoped at first that a clear distinction might have been made between such Acts as relate to Trustee Savings Banks only, and such as regulate Post Office Savings Banks. This, however, has been found to be impossible, owing to the peculiar mode

in which the Legislature has dealt with the subject. The Acts have therefore been arranged as follows:—

At the commencement of the volume will be found the 26 & 27 Vict. c. 87, which embodies most of the law regarding Trustee Savings Banks, although some of the provisions of the 26 & 27 Vict. c. 14 (strictly speaking a Post Office Savings Bank Act) also relate to the former.

Then follow such Acts as relate especially to Post Office Savings Banks, viz.: the 24 Vict. c. 14, the 26 Vict. c. 14, and the Acts and portions of Acts which, though repealed as to Trustee Savings Banks by 26 & 27 Vict. c. 87, are still kept on foot as regards the newer forms of the institution;—viz. certain sections of 9 Geo. IV. c. 92; 3 & 4 Will. IV. c. 12; 5 & 6 Will. IV. c. 57; 7 & 8 Vict. c. 83; and the whole of 22 & 23 Vict. c. 14. With these enactments have been placed the Post Office Regulations.

The Savings Bank (Barrister Act), 1876, certain sections of the Married Women's Property Act, and the Bankers Books Evidence Act, have been placed in a third group as having reference to the Savings Bank system generally, while at the conclusion will be found the two chief Acts relating to the Government Insurance system, 16 & 17 Vict. c. 45, and 27 & 28 Vict. c. 43.

In the Introduction it has been attempted to give a sketch of the history of legislation on the

subject, and to notice some of the principal points of the Jurisdiction of the Registrar of Friendly Societies with regard to Savings Banks. Most of the principal forms in use at the Central Office have also been given.

It has not been thought necessary to include in the present volume the Acts regulating naval and military Savings Banks, with the working of which the Registrar of Friendly Societies is in no way concerned, and which have no practical relation with the general subject.

Whilst this work has been passing through the press an Act has been passed 'To grant certain Duties of Customs and Inland Revenue, and to amend the Laws relating to Customs, Inland Revenue, and Savings Banks.' This statute (40 Vict. c. 13) has for its object the complete separation of the National Debt Commissioners' accounts for Trustee Savings Banks, and Post Office Savings Banks (Part V. sec. 17).

The writer is glad to take this opportunity of thanking the Chief Registrar of Friendly Societies (Mr. J. M. Ludlow) for many valuable suggestions. He also begs to offer his best thanks to Mr. Brabrook, Assistant Registrar of Friendly Societies for England, to Mr. Court, of the National Debt Office, and to Mr. Thomson, the Controller of the Post Office Savings Banks, for help kindly accorded to him.

1 Brick Court, Temple.

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THE

LAW RELATING TO SAVINGS BANKS.

INTRODUCTION.

CHAPTER I.

HISTORICAL SKETCH OF SAVINGS BANK LEGISLATION.

SAVINGS BANKS may be conveniently grouped into two great classes.

First. Those established by individuals, the property and management of which are vested in the trustees and officers of the institution, and which can trace their history back to the beginning of the century; and

Secondly. Post Office Savings Banks, which only came into being some fifty years later, and which are under the control of the Postmaster-General, the deposits being made 'with the security of the Government for the due repayment thereof.' (24 Vict. c. 14, preamble.)

1. TRUSTEE SAVINGS BANKS.

It is to the Church that the first attempt to induce habits of economy among the poor, through the medium of Savings Banks, is owing.

In 1799, the Rev. J. Smith, the rector of Wendover, Bucks, being anxious to encourage the practice of frugality in his parish, offered, with two other inhabitants, to receive weekly any sum not less than 2*d.*; and, if the

amount were not touched before Christmas, to add 1*s.* 3*d.* to it, as a bonus or encouragement.

Other efforts in the same direction followed.

The most noteworthy of these was a Parish Savings and Friendly Society, which was established by the Rev. H. Duncan, at Ruthwell, in Scotland, and which more nearly resembled a modern Savings Bank than anything which had preceded it. It was much brought into notice by a minute published regarding its system, and the details were received with so much favour that by 1817 there were seventy-eight establishments resembling it in the United Kingdom.

In this year (1817) Savings Banks were first considered institutions sufficiently important to require legislation. The two Acts 57 Geo. III. cc. 105 and 130 [1] authorised the formation of societies in Ireland and England of any number of persons 'for the purpose of establishing any institution in the nature of a bank,' to receive deposits of money for the benefit of the depositors, and to accumulate the produce of 'so much as shall not be required by the depositors, their executors, or administrators,' deducting thereout only 'so much as shall be required to be retained for the purpose of paying and discharging the necessary expenses attending the management of such institutions, according to such rules, orders, and regulations as shall have or shall be established for that purpose, but deriving no benefit whatsoever from any such deposit or the produce thereof.' (Section 1.)

The Acts also gave Savings Banks certain legal remedies and fiscal exemptions, and made provision for the filing of rules with the Clerk of the Peace; they also enacted:

(i.) That the property of the institution should be deemed vested in its officers, through whom it was to sue and be sued:

[1] The former of these Acts relates to Ireland and the latter to England.

(ii.) That disputes could be referred to a binding arbitration.

In the following session (by the Act 58 Geo. III. c. 48)[1] rules of Savings Banks were made subject to confirmation by Justices.

No legislation worthy of note on the subject took place till 1828, when the 9 Geo. IV. c. 92 was passed, which may be regarded as a turning point in the history of Savings Banks. The following provisions made thereby are especially deserving of attention:—

1. By section 2, the sanction and approval of the National Debt Commissioners were required in addition to that of the Justices at Quarter Sessions for the formation of any future Savings Bank.

2. Section 4 required that, before the deposit of the rules of a Savings Bank with the Clerk of the Peace, a transcript thereof should first be submitted at the expense of the institution 'to a barrister at law to be appointed by the Commissioners for the Reduction of the National Debt, for the purpose of ascertaining whether the same are in conformity to law and with the provisions of this Act;' and on payment of a guinea fee the barrister was either to certify them or indicate in what respect they were repugnant thereto.

3. By section 45, the barrister so appointed was empowered to act as umpire in cases of arbitration.

4. Trustees of Savings Banks were required to appoint agents.[2] (Section 18.)

[1] In the year following the Savings Banks system was introduced into Scotland.

[2] This provision, as well as those mentioned in the paragraph following (No. 5), were made law in Ireland four years earlier by 5 Geo. IV. c. 62 (1824), which also allowed deposit accounts on trust to be opened in that country, forbade persons to deposit in more than one savings bank, and required that annual accounts should be submitted to the National Debt Commissioners.

5. Sections 20 and 21 imposed certain special restrictions on drafts of large amount.

6. The limit of individual deposits was, by section 35, fixed at the present amount; viz., not more than 30*l.* was to be received in one year, or more than 150*l.* in the whole, while interest was to cease where the principal and interest together should amount to 200*l.*

7. Friendly and other charitable societies were allowed to deposit in Savings Banks under certain conditions; the limit in case of Friendly Societies being 300*l.* (Sections 27 and 28.)

8. Section 25 authorised Savings Banks to receive the deposits of minors, and section 26 permitted them to receive those of married women.

9. Section 12 enacts that trustees shall not be prevented from receiving deposits for purposes other than payment to the account of the National Debt Commissioners, and that they can apply such money 'in any other manner,' for the benefit of the depositors according to the rules of the Institution; a provision which is still law under 26 and 27 Vict. c. 87.

10. The interest payable to Savings Banks was reduced from 3*d.* to 2½*d.* a day, and that payable to depositors to 2¼*d.* This Act was extended to Scotland in 1835 by the Act 5 & 6 Will. IV. c. 57.

In 1844 the law relating to Savings Banks was brought still more into its present form by the 7 and 8 Vict. c. 83, which, in lieu of the system of depositing or filing rules with the Clerk of the Peace, provided that two written or printed copies of all rules or alterations of rules should be submitted 'to the barrister-at-law appointed under the provisions of the 9 Geo. IV. c. 92;' and that after he had ascertained whether they were in conformity to law he should give a certificate on each, or point out in what respect any part or parts of them were repugnant thereto, and should then return one certified copy to the

institution, and transmit the other to the National Debt Commissioners. (Section 19.)

Sections 14 and 15 of the Act gave the barrister power to settle disputes between the trustees and managers of a Savings Bank and the individual depositors, their executors, administrators, next of kin, creditors, assignees in bankruptcy, or any persons claiming to be such executors, &c., and authorised him for that purpose to inspect books and examine witnesses on oath.

Section 11 provided that the trustees or managers, under the authority in writing of the barrister, should pay monies due to illegitimate depositors dying intestate and without lawful next of kin to anyone or more of the persons who in their opinion would have been entitled under the Statue of Distributions but for the illegitimacy.

The Act also further reduced the interest payable to Savings Banks to 3*l.* 5*s.* per annum.

The provisions of the above-mentioned Acts were consolidated by the 26 & 27 Vict. c. 87, which is the Act now in force. This statute repealed wholly (but with an important exception to be presently noticed) the 9 Geo. IV. c. 92 and 7 & 8 Vict. c. 83, as well as some other Acts[1] relating to the government insurance and annuity system. While adopting the principal provisions of the two first-mentioned Acts, it made but few substantial alterations in the system. The following are the most important:—

Section 6 required that the rules of all Savings Banks should adopt the following official regulations:—

(i.) The attendance of at least two trustees, managers, or paid officers appointed for that specific purpose was required on all occasions of public business.

(ii.) Provision was required to be made for the comparison of the pass-books of depositors with the ledger on every repayment, and also on its

[1] The Acts and parts of Acts repealed by 26 and 27 Vict. c. 87 will be found in schedule A. of the Act.

first production at the Bank after each 20th November.

(iii.) The books of the Bank were required to be audited and reported on half-yearly at least by a public accountant or one or more auditors appointed by the trustees and managers, but 'not out of their own body.'

(iv.) It was enacted that a book containing an extracted list of the depositors' balances made up every year to the 20th November should be open at any time during the hours of public business, for the inspection of every depositor as regards his own account, to examine his own deposit book therewith and the general results of the same.

The account was to omit the names but give the distinctive numbers and separate amounts, and to show the aggregate number and amount of the whole, checked and certified by the public accountant or auditors.

(v.) Meetings of the trustees and managers were required to be held half-yearly at least, and minutes to be kept of their proceedings in a separate book.

2. By section 7, the trustees and managers were required to transmit weekly returns to the National Debt Commissioners showing the amount of the week's transactions, and the amount of cash balances remaining in the hands of the treasurer, or any other person on account of such Savings Bank.

3. The interest payable to depositors was by section 23 limited to 3*l.* 0*s.* 10*d.* That payable to the Savings Banks themselves was kept at its former rate, viz. 3*l.* 5*s.* (section 21).

Certain important provisions relating to the closing of Trustee Savings Banks are, moreover, contained in an Act nominally relating to Post Office Savings Banks, which will be presently noticed, the 26 & 27 Vict. c. 14.

2. Post Office Savings Banks.

By section 68 of the 26 & 27 Vict. c. 87, it is provided that the Acts repealed by it and mentioned in Schedule A. should be held as not repealed as far as relates to Post Office Savings Banks established under 24 Vict. c 14.

The last-mentioned Act (24 Vict. c. 14) was the first attempt of the Government to adopt the Savings Bank system.

The subject had more or less occupied the attention of public men since 1806, when Mr. Whitbread made a proposition with regard to the establishment of Savings Banks under Government supervision.

In 1859, however, Mr. Sikes, of the Huddersfield Banking Company, read a paper before a Social Science Congress held at Bradford, in which he advocated the establishment of a Savings Bank in connection with the money order department of the General Post Office.[1]

The plan was so clear and detailed that it was taken up by the Postmaster-General, and in consequence the Act above mentioned was passed (24 Vict. c. 14). The system thus introduced proved remarkably successful, and, so far from proving an injury to that already established, has been a positive benefit to it.

As a proof of this it may be mentioned that before the Post Office system came into operation there were 1,609,103 depositors in the old Savings Banks, while after the passing of the Act this number had increased to 1,887,510 by March 31, 1864. It would appear that the Post Office Savings Banks are suitable for smaller deposits

[1] Mr. Chetwynd, of the Post Office, was the originator of the system as now established. An interesting account of the official correspondence on the subject and the arrangements made for carrying out the scheme by the Post Office will be found in Section I. of 'The Origin and Progress of the General Post Office Savings Banks,' pp. 7–51, published under the direction of the Controller-General of the department.

than the old Savings Banks (judging at least from the sums deposited since the two systems have been working together), and that the former will therefore reach and benefit a lower social stratum of the people than the latter.

The preamble of 24 Vict. c. 14 states that the object of the Act is 'to grant additional facilities for depositing small savings at interest, with the security of the Government for the repayment thereof.'

By section 1, the Postmaster-General is empowered, with the consent of the Treasury, to 'authorise and direct such of his officers as he shall think fit to receive deposits for remittance to the principal office and to repay the same,' under such regulations as, with the consent of the Treasury, he may prescribe, paying the monies so received to the National Debt Commissioners (section 5).

Section 10 makes provision for the transfer of deposits to and from ordinary Savings Banks; and section 14 enacts that 'all the provisions of the Acts now in force relating to Savings Banks as to matters for which no other provision is made' by the Act are to be 'deemed applicable to this Act so far as the same are not repugnant thereto.' This provision comprises, for example, the settlement of disputes by the barrister under the Savings Bank Act of 1844 (7 & 8 Vict. c. 83).

Section 7 fixes the rate of interest payable on deposits under the Act at 2*l.* 10*s.*

A further addition to the law of Post Office Savings Banks was made by 26 & 27 Vict. c. 14 (1863), an Act 'to amend the Law relating to Post Office Savings Banks.'

Sections 1 & 5 made provision for the transfer of accounts of minors.

Sections 2 & 3 provide for the closing of Savings Banks, and thus concern Trustee Savings Banks only.

Lastly, by sections 4 & 6 power is given to 'the Commissioners of Her Majesty's Treasury' to direct, by warrant

'under the hands of any two or more of them,' that stock standing in the books of the Bank of England in the names of the National Debt Commissioners on account of Post Office Savings Banks, and 'bearing interest at or exceeding' 3 per cent., should be converted into a like amount of 2 per cent. stock, plus an annuity for a term of years ending April 5, 1885, equivalent in value to the difference between the two rates of interest.[1]

This Act is the last on the subject of Post Office Savings Banks law; but there still remains to notice briefly some enactments which relate both to it and to the law of ordinary Trustee Savings Banks. The first of these is the Married Women's Property Act of 1870 (33 & 34 Vict. c. 93).

By section 1, the earnings of any married woman after the passing of the Act are to be deemed to be her own property; while section 2 provides that her deposits in any Savings Bank are also to be considered as her separate property, notwithstanding any provision to the contrary in 10 Geo. IV. c. 24, or the other Acts relating to Savings Banks; but provided always that such deposit is not made by means of monies of her husband without his consent, in which case the latter has a remedy under section 9 of the Act, which makes provision for the settlement of questions arising as to the ownership of property under it.

The Savings Bank Barrister Act of 1876 (39 & 40 Vict. c. 52) has for its object the transfer of powers and duties formerly lodged in the barrister-at-law appointed by the National Debt Commissioners under the Savings Banks Acts.

It is also noteworthy as completing a series of enact-

[1] With regard to the course of business between the Post Office and the National Debt Office see 'The Origin and Progress of the System of Post Office Savings Banks,' referred to above, pp. 52 sec. I., and 168 sec. II.

ments tending to make a central authority for a number of different classes of societies for promoting habits of self-help and frugality.

By section 4 of 9 Geo. IV. c. 92 (1828), the rules of Savings Banks were directed to be submitted to a barrister-at-law appointed by the National Debt Commissioners, and by section 4 of 9 Geo. IV. c. 56 (1829) provision was made for submitting the rules of Friendly Societies to the same authority. In 1835 the rules of Loan Societies, and in 1836 the rules of Benefit Building Societies, were ordered to be submitted to him by the Acts of 5 & 6 Will. IV. c. 23 and 6 & 7 Will. IV. c. 32 respectively. The Friendly Societies Act of 1846 (9 & 10 Vict. c. 27) provided that the barrister-at-law appointed to certify the rules of Friendly Societies was to be styled 'the Registrar of Friendly Societies in England, Ireland, and Scotland respectively;' while subsequent Acts gave him as registrar a like authority as respects Industrial and Provident Societies and Trade Unions.

Section 10 (4) of the Friendly Societies Act 1875 (38 & 39 Vict. c. 60) vests in the central office thereby established all the powers of the registrars of Friendly and Building Societies, and the barrister-at-law appointed to certify the rules of Savings Banks, as respects loan societies, &c. (but not Savings Banks themselves). Finally, under the Savings Bank Barristers Act, to the registrar of Friendly Societies appointed under the Friendly Societies Act 1875 (38 & 39 Vict. c. 60) [1] are transferred

(i.) The power of certifying rules and alterations or amendments of rules of Savings Banks.

(ii.) The powers and duties relating to any dispute arising between the trustees and managers of any Savings Bank, or (in case of Post Office Savings Banks) the Post-

[1] This means for England, the Central Office, for Scotland and Ireland, the Assistant Registrars of Friendly Societies for those countries.

master-General, on the one hand, and any depositor or person claiming through or under a depositor on the other.

On the other hand, all powers and duties other than those above mentioned are transferred to and vested in such persons as the Commissioners of Her Majesty's Treasury shall from time to time appoint.

The Bankers Books Evidence Act of 1876 (39 & 40 Vict. c. 48) must be noted as having an express reference to Savings Banks, section 2 enacting that the word 'bank' shall mean, *inter alia*, 'any Savings Bank certified under the Act of 1863,' and that the words 'legal proceedings' shall include 'all proceedings, whether preliminary or final, by way of arbitration, examination of witnesses . . . in which there is power to administer upon oath.' The preamble of the Act states that its object is to remedy the inconvenience caused both to bankers and the public by the removal of ledgers and account books for the purpose of being produced as evidence in legal proceedings.

Section 3 therefore provides that the entries in such books shall be admissible in all legal proceedings 'as *primâ facie* evidence of the matters and transactions recorded therein, on proof by affidavit in writing, of one of the partners, managers, or officers of such bank,' as to the correctness of the entries, and that the books come immediately from the bank. Nothing, however, contained in the clause is to apply 'to any legal proceeding to which any bank,' whose ledgers and other books may be required to be produced in evidence, 'shall be a party.' By section 4 it is enacted that originals need not be produced where copies of the entries necessary as evidence can be verified 'by means of the affidavit of a person who has examined the same.' No bank, however, is to be compellable to produce books unless under a special order of a judge of one of the superior courts (section 8), who may order that any party in a suit, making application, after having received 'five days' notice in writing or such other notice as may be ordered by the court,' may inspect books, and take

copies (sections 5 and 6); or 'that such entries and copies mentioned in the said notice are not admissible as evidence.'

A consideration of the statutes noticed above will show the spirit in which the legislature has dealt with Savings Banks. They have been regarded as quasi-charitable institutions of such importance and of so valuable a nature to the class whom they especially concern as to require special protection and encouragement. In order to save depositors from expensive litigation a special tribunal is provided in the Registrar of Friendly Societies where speedy and simple redress may be obtained; and on the same principle all powers of attorney, warrants, letters and other documents in connection with the trustees of these institutions, or depositors in them, have been exempted from stamp duty.

In one respect, indeed, a privilege once given to Trustee Savings Banks, that of a high rate of interest, has been gradually withdrawn, whilst it has been altogether withheld from Post Office Savings Banks. Until 1828 the interest payable both to depositors and Savings Banks was 3*d.* per diem or 5 per cent. nearly. This rate has by successive enactments been reduced to 3*l.* 5*s.* per cent. to Savings Banks, and 3*l.* 0*s.* 10*d.* to depositors. In the case of Post Office Savings Banks it has always remained fixed at 2*l.* 10*s.* per cent.

The deficiency, however, which it was the object of this reduction to remove still continues, and was commented on by the Chancellor of the Exchequer in his speech on the Budget, as reported in the 'Times' of Friday, April 18, 1877. He states that the excess of interest paid or credited by the National Debt Commissioners to the Trustees of Savings Banks in the year ending November 20, 1876, was 72,776*l.*, and that the excess of interest paid or credited to the trustees of Friendly Societies was 49,647*l.*, making a total excess of over 122,000*l.* On the other hand, the excess of interest earned

by the Government in respect of Post Office Savings Banks was 159,000*l.*, which, however, was subject to a considerable deduction.

The best proof, however, of the success of the system is the result shown by the returns of the National Debt Commissioners and of the Postmaster-General for 1875, which give a total of 5,730 Banks in the United Kingdom,[1] of which the following particulars may be noted:—

TRUSTEE SAVINGS BANKS.

Total amounts in the United Kingdom.

Number of Banks.	Number of Accounts remaining open.	Total amount owing to Depositors.
470	1,479,192,	42,388,316 2*s.* 7*d.*

POST OFFICE SAVINGS BANKS.

Total amounts in the United Kingdom.

Number of Banks.	Number of accounts remaining open.	Total amount owing to Depositors.
5,260	1,777,103	9,355,436

But excellent as the system is as a whole, a very superficial review of the law on the subject will suffice to show that it is far from being perfect.

For example, while Trustee Savings Banks enjoy the advantage of an Act which for the most part consolidates all the law relating to them (26 & 27 Vict. c. 87), the newer offshoots of the system, the Post Office Savings Banks, are governed by four Acts all of them of considerably earlier date than the one above mentioned, all of them repealed for other purposes, and the principal one of which (9 Geo. IV. c. 92) was enacted nearly fifty years ago, when the system was in its infancy. While, therefore, the law relating to Trustee Savings Banks is comparatively clear, that with regard to Post Office Savings Banks is often difficult to interpret, and the two systems seem often unnecessarily to differ on certain points.

As examples of this may be quoted the sections as to

payment on the death of illegitimate depositors who die intestate; on the one hand, section 46 of the 26 & 27 Vict. c. 87, and on the other, section 11 of 7 & 8 Vict. c. 83, on which the 20th Post Office Regulation is based. And again those as to payments of deposits not exceeding 50*l.* section 43 of 26 & 27 Vict. c. 87, on the one hand, and section 10 of 7 & 8 Vict. c. 83 with the 18th Post Office Regulation on the other.

With regard, however, to the faults of the system the writer feels that he cannot do better than quote in conclusion the following remarks of the Chief Registrar of Friendly Societies, as given in his Report on Friendly Societies and Trade Unions for 1875, Part I. p. 31 :—

'The Chief Registrar may take this opportunity of observing that the laws relating to Savings Banks and Post Office Savings Banks appear to him greatly to need consolidation and amendment. By a singular anomaly, the newer institution (the Post Office Savings Bank) is to a great extent governed by the repealed Savings Banks Acts of the 9 Geo. IV. c. 92., the 3 Will. IV. c. 14., and the 7 & 8 Vict. c. 83, instead of by the one now in force of the 26 & 27 Vict. c. 87. Both institutions, moreover, reproduce in a great degree in their constitution an obsolete pattern of Friendly Society, none of the improvements in legislative machinery which experience has suggested for the latter class of bodies having been made available. The privilege of nomination for small sums, for instance, now granted to members of Friendly Societies, of Industrial and Provident Societies, and of Trade Unions, is one entirely adapted to Savings Banks, and which, if put in operation, would remove probably the great majority of the difficulties which now arise in cases of the intestacy of depositors. As between Savings Banks and Post Office Savings Banks, again, the law of forfeiture of double deposits, whether in the same or different banks, justifiable as to the former, so long as a comparatively

high rate of interest is allowed, becomes one of extreme hardship as to the latter, from all investments in which the State derives a profit. The Chief Registrar ventures also to think that the Post Office regulations as to Savings Banks require emendation in several respects.'

The Government Insurance System.

Closely connected with the present subject is the history of the Government Insurance system, and it may therefore be worth while to note the principal enactments with regard to it.

The 3 & 4 Will. IV. c. 14 (1833) laid the foundation of the system by allowing the purchase of annuities immediate or deferred through the medium of Savings Banks or of Societies which were authorised to be established for the purpose in parishes or places where there were no savings banks (section 37). The maximum amount of the annuities was fixed at 20*l.* and the minimum at 4*l.* This Act was extended to Scotland in 1835. The law on this head was further developed by an Act of 1853 (16 & 17 Vict. c. 45), section 2 of which empowered the National Debt Commissioners to grant annuities not exceeding 30*l.* to depositors in savings banks, or to any 'other person whom the said Commissioners shall think entitled to be or to become a depositor in a savings bank;' thus constituting the Commissioners judges of the fitness of intending annuitants, instead of the trustees or managers of savings banks, and empowering them to receive the purchase directly from them, though the option of contract through the Savings Banks was still left them (section 11.)

By section 10, the Commissioners were empowered to contract for insurances payable on death not exceeding 100*l.*, but only with persons also purchasing deferred annuities on their own lives. The most important Act, however, on the subject was that passed in 1864 (27 & 28

Vict. c. 43), entitled 'An Act to grant additional Facilities for the Purchase of small Government Annuities and for assuring Payments of Money on Death,' which authorises the granting of deferred annuities for sums payable in smaller instalments and at shorter periods than heretofore (section 1).

Section 2 raises the maximum amount of annuities to 50*l.* instead of 30*l.*, the previous limit, and by section 3 the condition that deferred annuities must be purchased by all persons insuring for a sum of money on death was repealed.

Section 4 fixes the limits of age of persons insuring between sixteen and sixty years, and section 5 makes the pecuniary limits lie between 20*l.* and 100*l.*

By section 9, it is enacted that purchasers of annuities, or persons contracting for insurances, are to be considered as depositors in a savings bank, and that 'all the provisions of the Acts now in force relating to Savings Banks, in so far as the same can or may be applicable,' shall apply to such persons; but provided that nothing contained in the Act shall exempt persons insuring for sums on death from probate or stamp duty.

But section 10 provides that instead of having recourse to arbitration only, parties beneficially interested may, if the Commissioners refuse payment of a sum on death, use the alternative of a recourse to the County Court, or in the case of Scotland or Ireland the Sheriff Court or Civil Bill Court respectively, the judgment of such Court to be without appeal. The Postmaster-General is empowered, by section 14, with the consent of the Commissioners of Her Majesty's Treasury, to authorise and direct 'such of his officers as he may select to receive and pay monies under contracts under the Act and the previous one;'[1] and

[1] With regard to the Purchase and Payment of Government Annuities through the Post Office, see 'The Origin and Progress of the System of Post Office Savings Banks,' and sec. II. p. 170, sec. III. p. 340.

section 15 authorises the Commissioners for the Reduction of the National Debt, with a like consent, to empower the trustees of savings banks to act in a similar manner while by section 16 power is given to each authority, with the consent of the Commissioners of the Treasury, to make regulations for carrying out the provisions of the Act.

An Act of 1873, 36 & 37 Vict. c. 44 (The Government Annuities Act, 1873), provides that annuities may be made payable through warrants sent by post.

CHAPTER II.

THE JURISDICTION OF THE REGISTRAR (LATE BARRISTER-AT-LAW, APPOINTED UNDER THE SAVINGS BANK ACTS).

As nearly all legal points connected with Savings Banks may come either directly or indirectly under the cognizance of the registrar, heretofore the barrister-at-law appointed under the Savings Bank Acts, it seems useful to consider in detail the nature of his jurisdiction.

With regard to Trustee Savings Banks, all his powers arise under the 26 & 27 Vict. c. 87; in the case of Post Office Savings Banks, under 9 Geo. IV. c. 92, 7 & 8 Vict. c. 83, and 24 Vict. c. 14.

Section 66 of 26 & 27 Vict. c. 87 empowered the Commissioners for the Reduction of National Debt 'to appoint a barrister-at-law;' and section 14 of the 24 Vict. c. 14 (which makes 'all provisions of the Savings Bank Acts as to which no other provision is made' applicable to that Act, 'so far as they are not repugnant thereto'), taken in connection with section 61 of 9 Geo. IV. c. 92, gives them a like authority in the case of Post Office Savings Banks.

The Savings Banks Barrister Act, whilst virtually abolishing the appointment of the barrister-at-law, has merely distributed his powers and duties in a different manner. These duties are as follows.

1st. The duty of inspecting rules and alterations of rules, and determining whether the same are in conformity to law. This arises under section 4 of 26 & 27 Vict. c.

87,[1] which requires that for this purpose two copies of such rules must be sent to the barrister, and that he should transmit one certified copy to the Savings Bank and the other to the National Debt Commissioners, and also fixes the fee payable to such barrister at one guinea.

2nd. The authority to determine all disputes referred to him under the Acts, and for that purpose to inspect books, and administer oaths; a power which will presently be considered more at length.

3rd. The power of deciding on cases of apparent fraud in the case of double deposits, i.e. deposits in more than one savings bank, or in more than one account by a depositor in the same savings bank.

Section 38 of the 26 & 27 Vict. c. 87 (which is based on the 34th section of Geo. IV. c. 92 re-enacted in section 3 of 7 & 8 Vict. c. 83) enacts that 'it shall not be lawful for any person or persons who shall have made any deposit in, or who shall be entitled to any benefit from, the funds of any savings bank (unless such benefit shall be derived solely as executor, administrator, or other personal representative of any deceased depositor in the same or any other savings bank) to make any deposit in any other account at the same or any other savings bank.' It also requires a declaration from depositors themselves, or, if they are minors, from 'some person approved by the trustees and managers,' to the effect that they have made no such other deposit, and goes on to state that 'in case any such declaration shall not be true, or, if any person shall at any time have or hold or be possessed of any deposit or funds in more than one savings bank within the United Kingdom, except as aforesaid, every such person shall, *if in the opinion of the barrister-at-law*

[1] This section is founded on the 4th section of Geo. IV. c. 92 as amended by sections 18 and 19 of 7 & 8 Vict. c. 83, which substitute the National Debt Commissioners for the Justices of the Peace for receiving the deposit of rules, and order two copies instead of one to be printed.

such deposit was made with a fraudulent intention, forfeit and lose all right and title to any deposit in or to any funds of any and every such savings bank,' &c. &c. Sums so forfeited are to be paid into the Bank of England or Ireland, as the case may be, to the account of the National Debt Commissioners.

The authority of the barrister on this point rests in the case of Post Office Savings Banks on section 34 of 9 Geo. IV. c. 92, which is reenacted as to the declaration by section 3 of 7 & 8 Vict. c. 83, with a further proviso that a copy of such declaration shall be printed at the beginning of the deposit book. And this enactment is reproduced in section 3 of the Post Office Regulations. Section 34 of 9 Geo. IV. c. 92, however, lacks the saving clause in favour of executors, administrators, and other personal representatives, and also omits the provision as to fraudulent intent contained in section 38 of the 26 & 27 Vict. c. 87. This defect in the latter instance was remedied by a Treasury Minute which extended the power to remit the penalty of forfeiture of double deposits, when made without fraudulent intention, to deposits under the Post Office Savings Banks Acts.[1]

4th. The power of the barrister to give authorities for payment where illegitimate depositors die intestate.

On this point the wording of the two Acts differs.

By section 46 of the 26 & 27 Vict. c. 87, it is provided that where any illegitimate depositor in a Trustee Savings Bank shall die intestate and leave 'any person or persons who but for the illegitimacy of such depositor would be entitled to the money due to such deceased depositor, it shall be lawful for the trustees and managers of such savings bank, *with the authority in writing of the barrister appointed to certify the rules of Savings Banks*,' to pay such money to any one or more of such persons as

[1] See notes on sec. 3 & 4 of 9 Geo. IV. c. 92, and regulation 3, as to the ordinary procedure in cases of double deposit.

would be entitled to it, under the Statute of Distributions, 'if the said depositor had been legitimate.' And if there are no such persons it authorises the trustees or managers, '*with the authority in writing of the said barrister*,' to pay such monies to such persons as shall be approved by the Commissioners of Her Majesty's Treasury.'

Section 11 of 7 & 8 Vict. c. 83, on which the 20th Post Office Regulation is founded, and from which the barrister derives his authority in this matter in the case of Post Office Savings Banks, enacts that where illegitimate depositors die intestate 'leaving any person or persons who but for the illegitimacy of such depositor and of such person or persons would be entitled to the money due to such deceased depositor, it shall be lawful for the trustees or managers, *with the authority in writing of the barrister appointed to certify the rules of Savings Banks*,' to pay such money 'to any one or more of the persons, as in their opinion would have been entitled to the same according to the Statute of Distributions, if the said depositor and such person or persons had been legitimate.'

It has been already shown that under the Savings Banks Barrister Act 1876 only the first and second of the four powers of the barrister above enumerated have been transferred to the registrar. Of these two the most extensive is the second, which may be termed his judicial power—that, namely, under which he makes awards and, for that purpose, is authorised to administer oaths and inspect books.

As respects Trustee Savings Banks, section 49 of the 26 & 27 Vict. c. 87 enacts that on the reference to the barrister of any dispute, 'it shall be lawful for the said barrister and he is hereby authorised to inspect any book or books [1] belonging to the said savings bank relating

[1] This enactment is now modified by the provisions of the Bankers Book Evidence Act, 39 & 40 Vict. c. 48. See p. 11, *ante*.

to the matter in dispute, and to administer an oath to any witness appearing before him, or to take the affirmation in cases where affirmation is allowed by law instead of oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.'

The authority of the barrister in this respect is based with regard to Post Office Savings Banks on section 15 of 7 & 8 Vict. c. 83, which is nearly word for word identical with section 49 of 26 & 27 Vict. c. 87, above quoted, the latter provision being in fact borrowed from the former.

These two enactments, however, it must be observed, merely give the barrister power to administer oaths to witnesses when present. Whatever power he has of compelling attendance is derived from the 14 & 15 Vict. c. 99, entitled 'An Act to amend the Law of Evidence.'

Section 2 of that Act enacts that, 'on trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action or other proceeding in any court of justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, the parties thereto and the persons in whose behalf any such suit, action, or other proceeding may be brought or defended shall . . . be competent and compellable to give evidence either *vivâ voce* or by deposition according to the practice of the court on behalf of either or any of the parties to the said suit, action, or other proceeding.'

As the registrar is clearly by section 15 of the 7 & 8 Vict. c. 83 and section 49 of 26 & 27 Vict. c. 87, constituted a 'person having by law . . . authority to hear, receive, and examine evidence,' there seems no reason to doubt his power to compel the presence of the 'parties' to 'any proceeding brought or defended' before him, or of

the persons 'in whose behalf' any such action is brought or defended; but it does not appear that he has legal power to compel the attendance of mere witnesses.

The power of the registrar to make awards in cases of dispute referred to him arises in respect of Trustee Savings Banks under section 48 of the Savings Bank Acts Amendment Act, 26 & 27 Vict. c. 87. This enacts that 'if any dispute shall arise between the trustees and managers of any savings bank and any individual depositor therein, or any executor, administrator, next of kin or creditor, or assignee of any depositor who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next of kin, creditor, or assignee, or to be entitled to any money deposited in such savings bank, then and in every such case the matter in dispute shall be referred in writing to the barrister-at-law appointed under the said hereby repealed Acts or this Act, who shall have power to proceed *ex parte* on notice in writing to the said trustees or managers, left or sent through the post office by the said barrister to the office of the said savings bank; and whatever award, order, or determination shall be made by the said barrister shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal.' This section, it will be observed, gives the registrar an exclusive and supreme jurisdiction in all cases of dispute that can possibly occur between depositors in Trustee Savings Banks and the bank in which they have deposited. It is taken almost entirely from section 14 of 7 & 8 Vict.;[1] on which the 23rd Post Office Regulation is founded, and which gives the like jurisdiction to the registrar in the case of Post Office Savings Banks.

[1] This section is in its turn partially borrowed from s. 45 of 9 Geo IV. c. 92, which in cases of dispute gave the alternative of a reference to the 'arbitration of two indifferent persons,' only referring to the barrister in case of a disagreement between the arbitrators so appointed.

In all such cases 'whatever award, order, or determination' he may make is to be 'binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal.'

The principle here laid down is illustrated by the decision of Tindal C. J. in the case of Crisp *v.* Bunbury.[1]

This was an action of assumpsit by Crisp, a depositor in the Mildenhall Savings Bank, in the county of Suffolk, against the defendant, Sir Edward Bunbury, as one of the trustees, for money had and received by them to the use of the plaintiff. The bank was established in April 1818, under the provisions of 57 Geo. III. c. 130, in accordance with which its rules were drawn up and deposited with the Clerk of the Peace. The defendant and others were elected trustees and a manager was appointed. The defendant also acted as treasurer. A certain William Gill was also appointed clerk, and acted in that capacity till 1825 when he absconded, having embezzled a considerable amount of the deposits; he was, however, prosecuted by the trustees to conviction and transported. The plaintiff, after much correspondence on the subject of his claims, gave notice to the defendants that he had appointed Mr. C. Austin, barrister of the Temple, as his referee, in order to try and procure an amicable adjustment of the matter. The defendants, however, refused this offer, and the plaintiff then brought his action, before Tindal C. J. at the Middlesex sittings 1830, when a verdict was found for him for 44*l.* damages, subject to the opinion of the court on a special case.

The case was argued in Hilary Term.

[1] 8 Bing. 394, 1 M. and Scott, 646. For a full report of the case, see Appendix B. It has been thought advisable to quote somewhat at length from the judgment in this case, as it enters very fully into the principle of the provision of the Acts on this head.

It was contended for the plaintiff, that the statute 9 Geo. IV. c. 92, c. 45 is directory only with respect to arbitration, and not imperative; and that parties cannot, by agreement, oust the courts of law of their jurisdiction; nor can a statute effect this except by express words or necessary implication (Cates *v.* Knight [1]); and that, at all events, the defendants, having refused to proceed to arbitration, could not now object that the plaintiff had proceeded at law.

For the defendants it was argued, that, as honorary trustees, they were not responsible for embezzlement by the clerk of the society; and that, at all events, the plaintiff's remedy was not by action but by arbitration.

Tindal C.J., after hearing both arguments, gave judgment for the defendants on grounds which may be seen from the following extracts from his judgment.

'This is an action of assumpsit against the defendants as trustees of the Mildenhall Bank for Savings, and is brought for money had and received by them to the use of the plaintiff. This bank was established in the year 1818 under the rules and regulations set out in the case; and from that time, until the passing of the statute 9 Geo. IV. c. 92, was governed by the various provisions contained in the statute 57 Geo. III. c. 130. But that statute, with certain other Acts which had been passed for amending it, were repealed by 9 Geo. IV. c. 92. . . .

'By the last section of 9 Geo. IV. c. 92, that statute is declared to extend to all savings banks established, and hereafter to be established, in England and Ireland. It appears, therefore, to us that the only law which governed and regulated the rights of the parties to this action, at the time the action was brought, is to be derived from the only statute then in existence in relation to the subject matter of the action, viz. the 9 Geo. IV. c. 92.' After noticing the contention of the defendants, that the only

[1] 37 R. 442.

remedy in cases of this kind lay in the provisions made by the legislature in section 45 of the 9 Geo. IV. c. 92; and that urged in answer to this by the plaintiff; viz., that though the case fell within the scope of that enactment, yet, that the jurisdiction of the common law is not ousted by any words to be found in this section; and that the utmost contemplated thereby was to establish a concurrent and not an exclusive jurisdiction in the arbitrators or barrister, his lordship continued:—'But we are of opinion, that, both with reference to the words of the statute, and the object which it had in view, the plaintiff is barred from maintaining the present action in a court of law, and must pursue the remedy provided by the statute. It is undoubtedly true that the jurisdiction of the superior courts of Westminster is not to be ousted, except by express words, or by necessary implication (Cates *v.* Knight): yet where the object and intent of the statute manifestly requires it, words that appear to be permissive only shall be construed as obligatory, and shall have the effect of ousting the courts of their jurisdiction, as in the case last referred to . . . . Now in this case the legislature has enacted that disputes of the description of the present "shall be referred," words which in their natural force denote an obligation, not a permission only; and unless these words are to be construed as compulsory on the plaintiff they mean nothing. If they are not compulsory on the plaintiff, neither can they be so, upon any principle of fair construction, upon the defendant. And if recourse to arbitration is not intended except both parties choose to adopt it, then indeed the Act is made a dead letter; for it would be competent for both parties to refer the dispute to arbitration, if they both agreed upon it, without the intervention of the statute. In order therefore to give these words of the statute any force or operation, the word *shall* must be construed as obligatory, that is, that the matter in dispute shall, of necessity, be referred

to arbitration, and not be determined in any of the courts of Westminster Hall.[1] But, looking at the object and intention of the legislature, we think it clear that the remedy by action is taken away, and that by arbitration substituted in its place. These institutions were intended to comprehend a very large number of depositors, chiefly from the lower walks of life; many of them contributing very small sums and claiming very small profits by the addition of interest. On the other hand, the trustees and managers are uncertain in point of number. To allow, therefore, actions at law to be maintainable by each depositor against the trustees, upon the occasion of every dispute with the institution, either as to the amount of the balance due, or the interest claimed by him, would be, in effect, to cause the ruin both of the depositors and the institution by casting the costs of an action in the superior courts at Westminster upon the losing party. No person would fill the gratuitous office of a trustee or a manager, if he was exposed to the hazard of suits at law at once so expensive and so numerous. No depositor would be able to enforce his just rights, if he must sue in the superior courts, at the hazard of being defeated with heavy costs if he sued more of the trustees than he might be able to prove liable, or subject to have his suit abated if he sued too few. It is evident therefore that the legislature contemplated the cheap, simple, speedy, and equitable adjustment of all disputes by a reference in the mode pointed out in the Act, instead of a more expensive, dilatory, and uncertain remedy by action at law; and we think we should defeat that very serviceable object—serviceable alike to the depositors and to the institution—unless we construe the words used, as words which import an obliga-

[1] It will be observed that section 48 of 26 & 27 Vict. c. 87, and section 14 of 7 & 8 Vict. c. 83, remove any doubts as to the obligatory nature of the word 'shall' in the 9 Geo. IV. c. 92, by taking away the alternative which it offered, in the first instance, of an arbitration 'by two indifferent persons.'

tion to refer and which take away the right to sue in the superior courts.

'In this view of the case it would be improper to give an opinion on the other points which were made in argument, as we have no jurisdiction; and we can only express our surprise and regret that the defendants who set up this as a ground of defence, did not act upon it when the plaintiff appointed an arbitrator on his part. At present, however, there must be judgment for the defendants.'

The decision in this case seems to have settled [1] any doubts which may have existed as to the extent of the barrister's jurisdiction.

The Act in force at the time was the 9 Geo. IV. c. 92, and the case turned wholly on the construction of the 45th section. The 14th section of 7 & 8 Vict. c. 83, however, and the 48th section of 26 & 27 Vict. are, as has been observed, enactments of a still more decisive character in this respect.

With regard to the first mentioned of these enactments, Blackburne C. J., in his judgment in the case of Lynch *v.* Fitzgerald (to be presently stated), says:—'To me, it seems clear that its provisions were deemed, and intended to be, adequate to enable the arbitrator, in all cases of dispute between depositors and those who had acquired their rights and the trustees, to do complete justice in the same manner and to the same extent, as might and could have been done by the ordinary tribunals of the land, if their jurisdiction had not been superseded and this tribunal appointed in their place.' And again with regard to the case of Crisp *v.* Bunbury he states that it 'establishes the proposition that the jurisdiction of the superior courts is ousted in all cases coming within the arbitration clause of

[1] Chief Justice Blackburne, in deciding the case of Lynch *v.* Fitzgerald, to be presently considered, mentions having decided the case of Cook *v.* Lord Courtown on the authority of Crisp *v.* Bunbury.

the first Act,[1] and as a consequence that the barrister who has been substituted by the second Act[2] for arbitrators under the first has exclusive cognisance of all such cases.[3]

Though, however, the registrar under the Savings Bank Acts is thus given sole jurisdiction over all cases of dispute which may arise between depositors in Savings Banks and the Institution, he is still rigorously bound to observe the rules laid down by the Acts which vest this authority in him, and any award by him, in cases where he has in any way neglected to comply with them, can be set aside by the superior courts of law.

This point is well illustrated by the case of Lynch *v.* Fitzgerald, quoted above.

There, an action of debt was brought by John Lynch, a depositor in the Tralee Savings Bank, against a Mr. William Fitzgerald, one of the trustees.

The plaintiff based his action on an award made by Mr. Tidd Pratt, the barrister appointed under the 7 & 8 Vict. c. 83. Mr. Pratt came to Tralee for the purpose of investigating the affairs of the bank in which there had been a large deficiency of funds. He issued on April 21 a circular to the trustees, to the following effect: 'Tralee Savings Bank, April 21, 1848. Your name appearing in the books as one of the trustees of the Savings Bank in Tralee, I have to request your attendance at the court house on Tuesday, April 25, at one o'clock, respecting certain claims made on the trustees and managers.' Mr. Fitzgerald, the defendant, attended among other trustees during the three or four days that Mr. Pratt was present to receive the claims of depositors

[1] 9 Geo. IV. c. 92, section 45.

[2] 7 & 8 Vict. c. 83, section 14.

[3] See Appendix C, Lynch *v.* Fitzgerald. Reported in Brunker's Digest of Irish Cases (Common Law Journal), 1869, and in the Report from the Select Committee on Savings Banks, &c., August 1850.

(which were presented to him by them on slips of paper), but did so on the assurance from Mr. Pratt that he would incur no further liability from so doing than he would have done if he had neglected to do so. Mr. Pratt, however, gave no notice in writing at the office of the bank of his intention to adjudicate on the claims of the depositors, and, though the circular above mentioned recited that certain claims had been made on the trustees, no such claims were, in point of fact, made till the meetings held in consequence of its issue.

Mr. Pratt, on June 16, 1848, published his award, in which, after reciting that a dispute had arisen between the plaintiff and the trustees of the bank as to the plaintiff's deposits, he ordered that the defendant, Mr. Fitzgerald, should pay the plantiff, 'on July 31 following, the sum of 27*l.* 9*s.* in full of all claims and demands.'

This was recited in the special count of the plaintiff's declaration.

Mr. Fitzgerald put in several pleas to this action, the principal of which altogether denied his liability on the foot of the award, and another stated that no notice had been given by Mr. Pratt of his intention to proceed with the arbitration.

The case came on for trial at the Spring Assizes of 1849 for the County of Kerry, before Judge Ball, who directed a verdict for the defendant, on the issue whether he had referred the matter in writing to Mr. Tidd Pratt, but directed a verdict for the plaintiff on the general issue of the defendant's non-liability.

The matter then stood over till the following Michaelmas term, when Mr. Fitzgerald's counsel obtained an order that the verdict found for the plaintiff should be set aside, and turned into a verdict for the defendant, on the ground that there was no legal foundation for the action, that, in point of fact, the award was unsound in certain particulars.

The argument took place in Michaelmas Term before the Lord Chief Justice Blackburne, Mr. Justice Crompton, Mr. Justice Perrin, and Mr. Justice Moore. At the conclusion of it the Chief Justice stated that as questions of very considerable difficulty arose on the construction of the Act on which the whole question was raised, and as the legal question on the special pleas still remained, and similar questions were involved therein, they would not proceed farther unless the parties chose, by mutual consent, to put the matter into a simpler form which the court suggested.

This offer, however, was refused, and in Easter Term 1850 Chief Justice Blackburne delivered the unanimous judgment of the Court in favour of the defendant. After noticing the effect of section 45 of 9 Geo. c. 92, and section 14 of 7 & 8 Vict. c. 83, and the jurisdiction thereby conferred on the barrister (which he stated was fully established by the case of Crisp *v.* Bunbury), he proceeded to consider in detail his duties and powers.

He pointed out that in cases of dispute he is bound, in the nature of that jurisdiction, to enquire into and decide on the amount of the debt of the depositor, to find out what has become of the fund, or who has been guilty of neglect or default, and that he is equally bound, after preliminary enquiries, to come to some determination and make some award. After stating that the arbitrator must not 'at once and *per saltum*' make an award, he continues: 'Though I think it is competent to the arbitrator, after a certain process and investigation, to make a personal decree for a depositor against one or more of the trustees, it is not possible to do so on the mere ground that the trustee is a defaulter. Before this can be done the arbitrator must ascertain, as a court of equity would do, by taking proper accounts, the amount of the whole available funds, the amount of their deficiency, the amount of the dividend payable to the plaintiff, and

the amount of the proportion of the sum for which the defaulting trustees are liable, and to which, in part payment of that dividend, the claimant would have a right to have a personal decree against them.'

After noticing the award and Mr. Pratt's proceedings at Tralee, his circular, and his neglect to give notice at the bank, he proceeds: 'I need not remark that it is essential to the validity of an award, as indeed it is to that of every judicial proceeding, that the party to be bound by it shall have the notice of it which the law requires. I may extend the remark to the necessity of notice to all those who, from their joint liability, may have an eventual interest in seeing that others, as well as they themselves, have had such notice as to make the award binding on all. Now let us see: had all or any of these parties the notice to which the Act entitled them? It says: if a dispute shall arise, it shall be referred in writing to the barrister who shall have power to proceed *ex parte*, on notice in writing left or sent to the office. According to the evidence I have stated, not one of these directions was pursued. There was not any notice in writing of any kind sent to or left at the office. The circular of the 21st was not left or sent there, and if it had been, it was written and delivered before any dispute arose; and the statement in it that certain claims had been made, is admitted by Mr. Pratt not to be true.

. . . . . .

'There seems, therefore, to have been in all these several respects an omission to comply with what the law has prescribed as essential to the jurisdiction of Mr. Pratt. I think it impossible to treat these as omissions of mere matter of form. The case before us is but one of a vast number of awards, all the result of an investigation of three or four days, making every trustee and manager, whether absent or present, liable to pay every depositor twenty shillings in the pound. There never, in any single instance, has been any written notice or specification to

any of them of the facts or grounds on which they have been held to be responsible. It is impossible, in my opinion, to attribute to an award made under such circumstances the final and binding character which it would possess if the provisions of the Act had been regarded and pursued.

. . . . . .

'For these reasons I think we are bound to give judgment for the defendant, and to order a verdict to be entered for him on the plea of nil debet. This determination I should have regretted if I had found that in fact the arbitrator had gone through the due course of enquiry, by the result of which alone he could have been warranted in awarding that the defendant was indebted to the plaintiff and the other depositors in the whole amount of their deposits. But as far as I can judge, this conclusion was arrived at as the consequence of a very large deficiency of the bank funds, without enquiry into the causes of that deficiency, without ascertaining to whose misconduct it was attributable, and without taking the accounts necessary to establish the right of the plaintiff to be paid twenty shillings in the pound by the defendant as his personal debtor.'

From the above judgment it is easy to see the restrictions which the law places on the authority of the barrister. In conducting his enquiries he will be required to proceed with the most scrupulous care, and is bound by all the rules which regulate ordinary courts of equity. In matters where it is required, he must take exact accounts of all the funds involved in the case,[1] and of the proportionate sums due to depositors, as well as those for which defaulting parties are liable. Above all things, he is bound to give notice in writing to all parties intended to be bound by his decisions and awards, as well as to 'all

[1] Whether the Registry Office possesses any machinery for this purpose appears doubtful.

those who from their joint liability may have an eventual interest in seeing that others, as well as they themselves, have had such notice as to make the award binding on all.' If he fail in any of these respects, he is liable to have his award set aside by the Common Law Courts.

Having thus considered in detail the jurisdiction originally vested in the barrister under the Savings Banks Acts, there remains to see to what extent the exercise of such jurisdiction is modified by the Savings Bank Barrister Act 1876 (39 & 40 Vict. c. 52).

The registrar of friendly societies, to whom the first two functions of the barrister are transferred by that Act, is, by section 4 of the 38 & 39 Vict. c. 60, defined to mean for England the 'Central Office,' and for Scotland or Ireland the assistant registrar for either country respectively. The Friendly Societies Act 1875, section 10, subsection 1, enacts that 'There shall be a chief registrar of friendly societies (herein termed the "chief registrar"), and one or more assistant registrars of friendly societies for England (herein termed "assistant registrars for England"); and such chief registrar and assistant registrars for England shall constitute the Central Office after mentioned. There shall be an assistant registrar of friendly societies for Scotland (herein termed "assistant registrars for Scotland"), and an assistant registrar of friendly societies for Ireland (herein termed "assistant registrars for Ireland").'

Subsection 2 states that the chief and assistant registrars are to be appointed by, and hold office during the pleasure of, the Treasury; and subsection 3 states the qualifications necessary for holding those offices, it being required that the chief registrar should be a barrister of not less than twelve years' standing, and that 'one at least of the assistant registrars for England, and every assistant registrar for Ireland, shall be a barrister or solicitor of not less than seven years' standing;' while every assistant registrar for Scotland is required to be 'an advocate, writer to the Signet, or solicitor of not less than seven years' standing.'

The effect of these sections, taken in connection with the first subsection of section 2 of the 39 & 40 Vict. c. 59, has been to vest in the Central Office the powers of certifying rules and amendments of rules, and of making awards in cases of disputes, in the case of Savings Banks in England only, and giving like powers in the case of Savings Banks in Ireland and Scotland to the assistant registrars for those respective countries. But as to Scotland and Ireland the final clause of section 2 of the Savings Bank Barrister Act 1876, makes the exercise by an assistant registrar for Scotland and Ireland of any power or duty which is vested in the chief registrar by the Act, exercisable only subject to the direction of the latter. It must be noted, however, that nothing is stated as to the supervision of the chief registrar of powers exercised by an assistant registrar *for England*; and therefore as section 4 of the Friendly Societies Act defines the term 'the registrar' to mean 'the Central Office' in the case of England, it must be presumed that the powers of the assistant registrar are, on this head, equal to those of the chief registrar. Awards by the Central Office are made under its seal—those of the assistant registrars for Scotland and Ireland under their hands.

By section 39 of the Friendly Societies Act 1875, every instrument or document, copy or extract of an instrument or document, bearing the seal or stamp of the Central Office, is to be received in evidence without further proof; and every document purporting to be signed by the chief or any assistant registrar, is, in the absence of any evidence to the contrary, to be received in evidence without proof of the signature.

And it would appear that by virtue of the 14 & 15 Vict. c. 99, s. 17, any person forging the seal of the Central Office or the signature of an assistant registrar will be guilty of a felony and punished accordingly.

Section 3 of the Act empowers the Treasury to fix by

warrant the amount of all the fees payable on awards or determinations by the registrar, but no warrant for the purpose has yet been issued.

With respect to the third and fourth functions of the barrister, those

(i.) Of deciding on cases of fraud in cases of double deposit;

(ii.) The power to give authorities for payment in cases where illegitimate depositors die intestate.

It is sufficient to say that under subsection 2 of section 2 of the Savings Bank Barrister Act 1876, these are now vested in the solicitor to the Treasury as their nominee.

The procedure in cases of dispute before the registrar is of the simplest.

The registrar having no power to award costs, there is no encouragement to the employment of attorneys or counsel, although the former frequently appear before him and the latter occasionally.

Evidence is taken, at the discretion of the registrar, according to circumstances, either *vivâ voce* or by statutory declaration. The parties are themselves examined. In cases where both parties consent to such a course, or where a mere point of law is involved, the registrar has given his award on written statements.

Although bound by no statutory rules in taking evidence, the registrar of course governs himself by the principles of law and equity. Thus in the case of persons unable to look after their own interests, as children or lunatics,[1] when no guardian or committee exists, he will

[1] Where a son, executor of his father's will, became a lunatic, and monies deposited in his name in a Post Office Savings Bank were claimed by his brother, on being informed that the lunatic had a son of full age, the registrar, having been fully satisfied by a personal examination that the latter had no claim, awarded payment to the brother. (*Re* Harris, February 3, 1877.)

require the attendance of some disinterested person as a quasi-guardian to represent the persons under disability before dealing with a dispute in which they are concerned. Maintenance has been allowed for infants out of the interest, and in cases of necessity out of the corpus, of their deposits.

The registrar, it will be observed, is bound to adjudicate whenever called upon to do so by any person 'claiming . . . . to be entitled,' whose claim is disputed by the savings bank. In some instances, however, where on the claimant's own showing he had no shadow of a title, the registrar has at once announced to him the impossibility of a decision being given in his favour, in order to save the waste of time of a hearing.

There is, as before stated, no appeal from his determination of a dispute, but in extreme cases he has considered himself entitled to rehear a matter and revoke an award. Thus, where the registrar had made an award in conformity with a judgment which was afterwards set aside, the registrar revoked his own award accordingly. (*Re* Ward, January 16, 1877.)

CHAPTER III.

THE FORMS IN USE IN THE FRIENDLY SOCIETIES OFFICE.

THE forms used in the practice of the registrar's office are not fixed by statute.

The following are those now in use.

Certificate of Rules.

I. Pursuant to the Savings Bank (Barrister) Act 1876, the Registrar hereby certifies that the foregoing rules of the are in conformity with law and with the provisions of the Act 26 & 27 Vict. c. 87.

Dated the day of 18 .

Certificate of alteration of rules.

II. Pursuant to the Savings Bank (Barrister) Act 1876, the Registrar hereby certifies that the foregoing alterations of (or additions to) the rules of the are in conformity with law and with the provisions of the Act 26 & 27 Vict. c. 87.

Dated the day of 18 .

Notice of hearing addressed to the parties.

In the matter of the Savings Bank (Barrister) Act 1876, 39 & 40 Vict. c. 52, and of the Acts therein referred to.

And of the deposits of in the Savings Bank.

Take notice, that the Registrar will proceed to hear and determine the matter in dispute relating to the said

deposits, which has been referred to the Registrar pursuant to the said Acts, on the day of next, at o'clock, at 28, Abingdon Street, Westminster.

Dated this day of 18 .

Notice of hearing by advertisement when the names or addresses of some of the parties entitled are not known.

In the matter of the deposits of in the Bank for Savings and of a claim of to be entitled to the said deposits, which claim is disputed by the said Bank. The matter in dispute having been referred to the Registrar of Friendly Societies appointed under the Savings Bank (Barrister) Act 1876, notice is hereby given that he will proceed to hear and determine the same on the day of next at o'clock P.M., at 28, Abingdon Street, Westminster, London. Any persons claiming to be interested in the said deposits should furnish particulars of their claims in writing before that date to the Registrar at 28, Abingdon Street aforesaid.

Dated this day of 18 .

FORMS OF AWARD.

I. *Award for payment of monies to a claimant.*

Re (Date)

Pursuant to the Savings Bank Barristers Act 1876, the Registrar hereby awards, orders, and determines that all monies in the Savings Bank standing to the credit of the account in the name of be paid to of aforesaid.

II. *Award that a claimant is not entitled.*

Re (Date)

Pursuant to the Savings Banks Barrister Act 1876,

the Registrar hereby awards, orders, and determines that is not entitled to the deposits of deceased in the Savings Bank by virtue of a certain deed of gift alleged to have been made to her by the said deceased depositor.[1]

[1] Where the circumstance require it, recitals are introduced into an award.

THE

SAVINGS BANKS ACTS AMENDMENT ACT

AN ACT TO CONSOLIDATE AND AMEND THE LAWS RELATING TO SAVINGS BANKS, 26 & 27 VICT. C. 87.

WHEREAS numerous banks for savings have been established under the authority of the Acts now in force for the safe custody and increase of small savings: and whereas it is expedient to amend such laws and to consolidate the same in one Act: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same:

After Nov. 20, 1863, the Acts and parts of Acts specified in schedule to this Act, marked A. repealed. Not to invalidate appointments, &c. under former Acts. Proviso as to certain savings banks in Scotland established

1. That the Acts and parts of Acts set forth in the schedule to this Act marked A., to the extent to which they are herein expressed, and all other Acts and parts of Acts which are inconsistent with this Act, relating to Savings Banks established under such Acts, are repealed from and after the twentieth day of November one thousand eight hundred and sixty-three, except in so far as is provided by the last section of this Act: Provided nevertheless, that nothing herein contained shall invalidate or annul any payments, receipts, or appointments made, or proceedings had, or bonds or secu-

under 59 Geo. III. c. 62.

rities taken or entered into, or drafts, powers of attorney, certificates, orders, or other instruments whatsoever executed, under the authority of any of the said Acts or parts of Acts hereby repealed: Provided also, that the provisions of an Act passed in the fifty-ninth year of the reign of King George the Third, intituled *An Act for the Protection of Banks for Savings in Scotland*, shall continue in force as to all savings banks established under it before the passing of this Act, unless and until they shall conform to and be established under the provisions of this Act.

What institutions shall be entitled to the privileges and benefits of this Act.

2. And whereas it is expedient to give protection to such savings banks already established as aforesaid and the funds thereof, and to afford encouragement to the formation and establishment of like institutions: be it therefore enacted, that if any number of persons have formed or shall form any society in any part of the United Kingdom of Great Britain and Ireland for the purpose of establishing and maintaining any institution in the nature of a bank to receive deposits of money for the benefit of the persons depositing the same, to accumulate the produce of so much thereof as shall not be required by the depositors, their executors or administrators, at compound interest, and to return the whole or any part of such deposit and the produce thereof to the depositors, their executors or administrators (deducting out of such produce so much as shall be required for the necessary expenses attending the management of such institution), but deriving no benefit whatsoever from any such deposit or the produce thereof, and shall be desirous of having the benefit of the provisions of this Act, such persons shall cause the rules and regulations established or to be established for the management of such insti-

tution to be entered, deposited, and filed in manner hereinafter directed, and thereupon shall be deemed to be entitled to and shall have the benefit of the provisions contained in this Act: Provided always, that the privilege of paying money into the Banks of England or Ireland, and of receiving receipts for the same, shall be and the same is hereby declared to be extended to all such savings banks as may have formed or may hereafter form their rules and regulations according to the provisions of this Act; and it shall and may be lawful for the trustees of such savings banks respectively to invest any funds already accumulated by such saving banks and which shall not have been invested at the time of the passing of this Act, and to receive receipts for the same in manner authorised by this Act: Provided nevertheless, that no such savings bank to be hereafter formed shall have or be entitled to the benefits of the provisions in this Act contained, unless the formation of the same shall have been sanctioned and approved of by the Commissioners for the Reduction of the National Debt, or on their behalf by the Comptroller General or Assistant Comptroller acting under the said Commissioners.

No new banks to be formed unless approved by Commissioners of National Debt.

3. No such savings bank as aforesaid shall have the benefit of this Act unless the rules and regulations for the management thereof shall be entered in a book or books to be kept by an officer of such savings bank to be appointed for that purpose, and which book or books shall be open at all seasonable times for the inspection of the persons making deposits in the funds of such savings bank. But, nevertheless, nothing herein contained shall extend to prevent any alteration in or amendment of any such rules or regulations, or repealing or annulling the same or any of them in the whole or in part,

Rules of savings bank to be entered in a book and be open to the inspection of depositors.

Not to prevent alteration of rules.

or making any new rules or regulations for the management of such savings bank in such manner as by the rules and regulations of such savings bank shall from time to time be provided; but such new rules or regulations, or such alterations in or amendments of former rules or regulations, or any order annulling or repealing any former rule or regulation in the whole or in part, shall not be in force until the same respectively shall be entered in such book or books as aforesaid.

Alterations to be entered in like manner.

Two written or printed copies of rules, &c. to be submitted to barrister for his certificate.

4. Two written or printed copies of all rules or alterations of rules made for the management of any savings bank requiring the benefits of this Act, signed by two trustees, shall with all convenient speed after the same shall be made, altered, or amended, and so from time to time after every making, altering, or amending thereof, be submitted by the trustees and managers for the time being of such savings bank to the barrister-at-law appointed by the Commissioners for the Reduction of the National Debt,[1] for the purpose of ascertaining whether the said rules, or alterations or amendments thereof, are in conformity to law and with the provisions of this Act; and the said barrister shall give a certificate [2] on each of the said written or printed copies that the same are in conformity to law, or point out in what part or parts the said rules, alterations, or amendments are repugnant thereto; and the fee to be paid to such barrister for perusing the rules, alterations, or amendments of the rules of such savings bank, and giving such certificate as aforesaid, shall not at any one time exceed the sum

Fee payable to barrister.

Barrister to return one

[1] Now the Registrar of Friendly Societies; see the Savings Bank Barrister Act 1876. *Post.*

[2] See *ante*, p. 38, for forms of certificate. It will be observed that no copy of the rules is retained by the barrister (now Registrar).

of one guinea; and one of such written or printed copies, when certified by the said barrister, shall be returned to the trustees of the said savings bank, and the other of such written or printed copies shall be transmitted by such barrister to the Commissioners for the Reduction of the National Debt; and all rules, alterations, and amendments thereof, from the time when the same shall have been certified by the said barrister, shall be binding on the trustees, managers, and officers of the said savings bank and the depositors therein, and their representatives, and the copy of such rules deposited with the said Commissioners, or a true copy thereof examined with the original and proved to be a true copy, shall be received as evidence of such rules respectively in all cases, and no certiorari shall be brought or allowed to remove any such rules into any of Her Majesty's Courts of record; provided that nothing herein contained shall be construed to require any rule making any alteration in the days or hours of attendance at any such savings bank as aforesaid to be laid before such barrister.

copy to savings bank and transmit the other copy to Commissioners.

5. Every savings bank established or to be established under the provisions of the said hereby repealed Acts or this Act shall be certified under the provisions of this Act by the title of 'Savings Bank certified under the Act of 1863;' and if any other bank, association, or company or any other person, shall use or adopt such title as their or his designation, or in carrying on business, the members of every such association or company, or any of them, or any such person respectively, shall be guilty of a misdemeanor, and on conviction thereof shall be punishable accordingly.

As to title of savings banks certified under this Act.

Penalty on using or adopting titles of other banks.

6. No savings bank, subject to the proviso hereinafter contained with respect to the Branch Offices or Local Receivers of any savings bank,

No savings bank, subject to proviso herein-

after contained with respect to branch offices, &c. shall have benefit of this Act unless in rules, &c. it shall be expressly provided as herein specified.

shall have the benefit of this Act unless in the rules and regulations for the management thereof it shall be expressly provided,—

1. That no person or persons being treasurer, trustee, or manager of such savings bank, or having any control in the management thereof, shall derive any benefit from any deposit made in such savings bank, save only and except such salaries and allowances or other necessary expenses as shall according to such rules and regulations be provided for the charges of managing such savings bank, and for remuneration to officers employed in the management thereof, exclusive of the treasurer or treasurers, trustee or trustees, manager or managers, or other persons having direction in the management of such savings bank, who shall not directly or indirectly have any salary, allowance profit, or benefit, whatsoever therefrom beyond their actual expenses for the purposes of such savings bank:
2. That not less than two persons, being either trustees, managers, or paid officers appointed for that specific purpose, and where two only, except in the case of savings banks which are open for more than six hours in every week, one such person to be a trustee or manager, be present on all occasions of public business,[1] and be parties to every transaction of deposit and repayment, so as to form at

[1] The Bank Holidays Act 1871 (34 Vict. c. 17) does not apply to Savings Banks, but there is no objection to a rule for closing a savings bank on all or any of the days mentioned in it.

least a double check on every such transaction with depositors :

3. That the depositor's pass books shall be compared with the ledger on every transaction of repayment, and on its first production at the bank after each twentieth day of November :

4. That every depositor in a savings bank established under this Act shall once at least in every year cause his deposit book to be produced at the office of the said savings bank for the purpose of being examined :

5. That no money be received from or paid to depositors except at the office or branch offices where the business of the savings bank is carried on under the authority of the board of managers, and during the usual hours for public business :

6. That a public accountant or one or more auditors be appointed by the trustees and managers, but not out of their own body, to examine the books of the bank, and to report in writing to the board or committee of management the result of such audit, not less than once in every half-year, also to examine an extracted list of the depositors' balances, made up every year to the twentieth day of November, and to certify as to the correct amount of the liabilities and assets of the bank :

7. That a book containing such extracted list of every depositor's balance, omitting the name, but giving the distinctive number and separate amount of each, and showing the aggregate number and amount of the

whole, checked and certified by such public accountant or auditors, be open at any time during the hours of public business for the inspection of every depositor as respects his own account, to examine his own deposit book therewith, and the general results of the same:

8. That the trustees and managers or committee of management shall hold meetings once at least in every half-year, and shall keep minutes of their proceedings in a separate book provided for that purpose:

Proviso with respect to branch offices and local receivers of banks.

9. Provided that where Savings Banks are established with agents or local receivers elsewhere than at the head office, the rules shall provide for the due receipt of and accounting for all monies by such agents or local receivers on account of such savings banks respectively, and also for the presence of a second party in every transaction when money is paid or received, and also for the periodical examination of the depositors' books with the ledger once at the least in every year.

Weekly returns to be made by savings banks to the Commissioners.

7. The trustees and managers of every savings bank shall transmit weekly returns to the Commissioners for the Reduction of the National Debt, in such form and giving such particulars as the said Commissioners may direct, showing the amounts of the week's transactions of such savings bank, and the amount of the cash balances remaining in the hands of the treasurer, or any other person on account of such savings bank.

Treasurer and other officers intrusted with

8. Every treasurer, actuary, or cashier who shall be intrusted with the receipt or custody of any sum

of money subscribed or deposited for the purpose of such savings bank, or any interest or dividend from time to time accruing therefrom, and every officer or other person receiving any salary or allowance for his services from the funds of any savings bank (except in the cases of supernumerary assistants employed at the periods of balancing the accounts), unless he shall already have given good and sufficient security, shall give good and sufficient security,[1] to be approved of by not less than two trustees and three managers of such savings bank, for the just and faithful execution of such office or trust; and such security, when given by an actuary or cashier, or officer or other person receiving any salary or allowance for his services as aforesaid, shall be given by bond or bonds, with one or more sureties, to the Comptroller-General of the National Debt Office for the time being without fee or reward, and in case of forfeiture it shall be lawful for the trustees or managers for the time being of such savings bank to sue upon such bond or bonds in the name of such Comptroller-General for the time being, and to carry on such suit at the costs and charges and for the use of the said savings bank, fully indemnifying and saving harmless such Comptroller-General from all costs and charges in respect of such suit, and such bond shall, when executed, be deposited with the Commissioners for the Reduction of the National Debt, and the said Commissioners may, upon application signed by not less than two trustees and three managers, in such form as the

Receipt or custody of money to give security.

[1] Under this section any officer temporarily appointed to have the receipt or custody of money, or to receive an allowance for his services, should give security.

It need hardly be observed that the secretary or actuary should not even temporarily act as auditor at the same time, so as to audit his own accounts.

said Commissioners shall direct, deliver up to the trustees of the savings bank any such bond or bonds which may have been or shall hereafter be deposited with them for the purpose of being cancelled.

Punishment of actuary, &c., receiving deposits and not paying over same to managers, &c.

9. If any actuary, cashier, secretary, officer, or other person holding any situation or appointment in any savings bank shall receive any sum or sums of money from or on account of any depositor or person desirous of becoming such, or on account of such savings bank, and shall not forthwith, or in the case of local receivers acting on behalf of any savings bank within the time specified in the rules of the said savings bank, duly account for and pay over the same to the trustees or managers thereof, or to such person as may be directed by the rules of the said savings bank, such actuary, cashier, secretary, officer, or local receiver, or other person as aforesaid, on being convicted thereof shall be guilty of a misdemeanour.

Effects of savings bank vested in trustees for the time being.

10. All monies, goods, chattels, and effects whatever, and all securities for money, or other obligatory instruments and evidences or muniments and all other effects whatever, and all rights or claims belonging to or had by such savings bank, shall be vested in the trustee or trustees of such savings bank for the time being, for the use and benefit of such savings bank and the respective depositors therein, their respective executors or administrators, according to their respective claims and interests, and after the death or removal of any trustee or trustees shall vest in the succeeding trustee or trustees for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever, and also shall, for all purposes of action or suit, as well criminal as civil, in law or

in equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (where necessary) be stated to be, the property of the person or persons appointed to the office of trustee or trustees of such savings bank for the time being in his, her, or their proper name or names, without further description, and such person or persons shall and they are hereby respectively authorised to bring or defend, or cause to be brought or defended, any action, suit, or prosecution, criminal as well as civil, in law or equity, touching or concerning the property, right, or claim aforesaid, of or belonging to or had by such savings bank; and such person or persons so appointed shall and may in all cases concerning the property, right, or claim aforesaid of such savings bank sue and be sued, plead and be impleaded, in his or their proper name or names as trustee or trustees of such savings bank, without other description; and no such suit, action, or prosecution shall be discontinued or abate by the death of such person or persons, or his or their removal from the office of trustee or trustees as aforesaid, but the same shall and may be proceeded in by the succeeding trustee or trustees in the proper name or names of the person or persons commencing the same, any law, usage, or custom to the contrary notwithstanding, and such succeeding trustee or trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names for the benefit of or to be reimbursed by the funds of such savings bank.[1]

11. No trustee or manager of any savings bank

[1] See section 2 of the 26 Vict. c. 14, as to the sale and leasing of the property of closed savings banks, and also as to purchases of freehold, copyhold, or leasehold property for savings banks.

Liability of trustees, &c.

(subject to the provision herein-after contained in respect to savings banks in Ireland) shall be personally liable, except—

1. For monies actually received by him on account of or for the use of such savings bank, and not paid over and disposed of in the manner directed by the rules of the savings bank:
2. For neglect or omission in complying with the rules and regulations required by this Act to be adopted as herein-before is provided in the maintenance of checks, the audit and examination of accounts, the holding of meetings and keeping minutes of proceedings thereat:
3. And also for neglect or omission in taking security from officers as is herein-before provided.

Power to trustees and managers of savings banks in Ireland to limit such responsibility.

12. Any trustee or manager of a savings bank in Ireland who has declared or shall declare in writing under his hand, deposited with the Commissioners for the Reduction of the National Debt, that he is willing to be answerable for a specific amount only, such amount being in no case less than one hundred pounds, shall not be liable to make good any deficiency which may thereafter arise in the funds of such savings bank beyond the amount specified in such writing: provided always, that the trustee and manager of every savings bank in Ireland shall be personally liable for all monies actually received by him on account of or to and for the use of such savings bank and not paid over and disposed of in the manner directed by the rules of the said savings bank; and an extract of this provision shall be enrolled as one of the rules of every such savings bank in Ireland, and printed

and affixed in every office or place where deposits are received, with the names and places of residence of the trustees and managers for the time being, and the amount (if any) to which they have collectively or individually limited their responsibility.

Treasurer and trustees, &c., to account and deliver up effects when required.

13. Every person who shall have or receive any part of the monies, effects, or funds of or belonging to any savings bank availing itself of the provisions of this Act, or who shall in any manner have been or shall be entrusted with the disposition, management, or custody thereof, or of any securities, books, or papers, or property relating to the same, his executors, administrators, and assigns, shall, upon demand made in pursuance of any order of not less than two trustees and three managers of such savings bank, or at any general meeting of the trustees or managers thereof, give in his or their account or accounts to the said trustees or managers, or to such general meeting of such savings bank, or to such other person or persons as shall be nominated to receive the same, to be examined and allowed or disallowed by the said trustees or managers respectively, and shall on the like demand pay over all the monies remaining in his or their hands, and assign and transfer or deliver all securities and effects, books, papers, and property in his or their hands or custody to such person or persons as the said trustees or managers shall appoint, and in case of any neglect or refusal to deliver such account, or to pay over such monies, or to assign, transfer, or deliver such securities, effects, funds, books, papers, or property in manner aforesaid, it shall be lawful to and for the trustee or trustees of such savings bank for the time being to exhibit a petition to the justices of the peace, at their general or quarter sessions of the peace, or at any adjournment thereof, for the county,

riding, division, or place wherein such savings bank shall be established, who shall and may proceed thereupon in a summary way, and make such order therein, upon hearing all parties concerned, as to such court in their discretion shall seem just, which order shall be final and conclusive, and all assignments, sales, and transfers made in pursuance of such order shall be good and effectual in law to all intents and purposes whatsoever.

Executors, &c., of officers of savings banks to pay money due to savings banks before any other debts.

14. If any person already appointed or who may hereafter be appointed to any office in a savings bank, and being entrusted with the keeping of the accounts, or having in his hands or possession by virtue of his said office or employment any monies or effects belonging to such savings bank, or any deeds or securities relating to the same, shall die, or become a bankrupt or insolvent, or have any execution or attachment or other process issued against his lands, goods, chattels, or effects, or make any assignment thereof for the benefit of his creditors, his executors, administrators, or assignees, or other persons having legal right, or the sheriff or other officer executing such process, shall, within forty days after demand made by two of the trustees of the said savings bank as aforesaid, deliver and pay over all monies and other things belonging to such savings bank to such person as the said trustees shall appoint, and shall pay out of the estates, assets, or effects of such person all sums of money remaining due, which such person received by virtue of his said office or employment, before any other of his debts are paid or satisfied, or before the money directed to be levied by such process as aforesaid is paid over to the party issuing such process, and all such assets, lands, goods, chattels, estates, and effects

shall be bound to the payment and discharge thereof accordingly.[1]

Trustees of savings banks shall invest all money in the banks of England or Ireland and not in any other security.

15. The several sums of money belonging to any savings bank which the trustees of such savings bank respectively are authorised to invest under this Act, or under any rules or regulations of any such savings banks, shall, except as herein-after is excepted, be paid into and invested in the Bank of England or the Bank of Ireland, as the case may require, in the names of the Commissioners for the Reduction of the National Debt, according to the provisions of this Act enabling such trustees to make investments in the names of the said Commissioners, and no such sum or sums shall be paid or laid out by the trustees of such savings bank in any other manner or upon any other security whatever, except as aforesaid, and except such sums of money as from time to time shall necessarily remain in the hands of the treasurer or treasurers of such savings bank to answer the exigencies thereof: provided always, that nothing herein contained shall restrain or prevent any depositor, or any trustee or trustees acting on behalf of any depositor or depositors of any

Not to prevent depositors withdrawing their money from savings

[1] Judging from the analogy between savings banks and friendly societies, this priority appears to be taken away by section 32 of the Bankruptcy Act of 1869 (32 & 33 Vict. c. 71), which enacts that all debts save rates, taxes, and the wages of clerks and of servants shall be paid *pari passu*. In the 8th edition of Tidd Pratt's 'Law of Friendly Societies,' the learned editor (Mr. E. W. Brabrook) states his opinion that the priority given to friendly societies by section 23 of 18 & 19 Vict. c. 63, was abolished by the above-mentioned enactment, though he mentions that there have been conflicting decisions on the point by County Court Judges (p. 22, Append. II. p. 420). The Friendly Societies Act 1875 (38 & 39 Vict. c. 60), it may be observed, has expressly enacted, by s. 15 (7), that on the death or bankruptcy of officers the trustees of the society shall be paid in preference to all other creditors.

banks for investment in other securities. Trustees empowered to pay into the Banks of England or Ireland any sum not less than 50*l.* to the account of the Commissioners for the Reduction of the National Debt.

friendly society, or any charitable or provident institution or society, or penny savings bank,[1] from withdrawing from any such savings bank any sum or sums of money which shall have been deposited by such depositor, friendly society, charitable or provident institution or society, or penny savings bank, and investing the same in any other securities: provided always, that the trustees of any savings bank already established, or which shall take the benefit of this Act in manner herein-before provided, shall be and they are hereby empowered to pay into the Bank of England or Ireland (as the case may be) any sum or sums of money, not being less than fifty pounds, to the account of the Commissioners for the Reduction of the National Debt, upon the declaration of the trustees of such savings bank, or any two or more of them, that such monies belong exclusively to the savings bank for which such payment is intended to be made, whether such monies shall have been deposited therein before the passing of this Act or thereafter shall be deposited therein, and the cashier or cashiers of the Banks of England and Ireland respectively are hereby required to receive all such monies, and to place the same into the account raised in the names of the said Commissioners in the books of the Banks of England and Ireland respectively, denominated 'the fund for the banks for savings:' provided nevertheless, that previous to any payment being

Previous to payments an order of two trustees to be produced.

[1] Although thus recognised by law, penny savings banks have never received any legal constitution. It is, however, probable that those which choose to do so may avail themselves of a special authority lately granted by the Treasury under the provisions of sections 8 and 9 of the Friendly Societies Act, 1875, empowering the registry of societies under that Act for 'the promotion of temperance and economy by taking small deposits.'

made into the Banks of England or Ireland as aforesaid, the person or persons applying for that purpose shall in all cases produce to the officer of the said Commissioners, at their office in London or Dublin (as the case may be), an order under the hands of two of the trustees of such savings bank on the account of which such payment is to be made.

Not to prevent trustees from receiving money to be applied in any other manner.

16. Nothing in this Act contained shall extend to prevent the trustees of any savings bank already established or to be established receiving any sum or sums of money from any depositor for any purpose except to be paid into the Bank to the account of the Commissioners for Reduction of the National Debt, and it shall be lawful for such trustees to apply any such sum or sums of money in any other manner for the benefit of the several depositors according to the rules and regulations of such savings banks respectively, anything in the said hereby repealed Acts or in this Act contained to the contrary notwithstanding.[1]

[1] The following appears to be the effect of this section, which of late years has begun to be largely acted on:—Whilst savings banks have no power to invest their collective funds, otherwise than with the Commissioners, their trustees may, from any persons already depositors in the bank (but not from any stranger) receive deposits without limit, and, so long as they do not pay such sums to the account of the Commissioners, they may apply them in any manner, provided it be for the benefit of the several depositors, *i.e.* those depositing under the section. A rule for the application of the profits of investments made under the section for the benefit of the depositors generally would therefore, it seems, not be registered. The provision of section 55 of the Act as to the yearly statements and the power of the Commissioners to close accounts for neglect or refusal to obey their orders or directions, those of section 8 as to officers giving security, and the exceptions in section 11, do not seem to apply to such deposits. The position of depositors under the section appears, therefore, to be far from being a secure one, and is, at any rate, very uncertain.

Central banks may invest the money of branch banks.

17. In cases where any savings banks have been, or shall be, established in any town or place, and other smaller banks have been, or shall be, established in the neighbourhood of such town or place as branch banks thereof, and such branch banks by their treasurers have paid, or shall pay, any sums into the bank in any such town or place as a central bank, it shall and may be lawful for the said trustees of any such central bank, or any two of them, to pay into the Bank of England or Ireland in manner prescribed by this Act, along with the monies belonging to such central bank, any sum or sums of money belonging to and on account of any such branch bank: provided always, that the treasurer of such branch banks shall certify to the treasurer of such central bank that the amount contributed by any one depositor in any such branch bank in any one year does not exceed the limit of deposits authorised by this Act.

Penalties on false declaration to obtain receipts.

18. If any order or declaration produced to the said officer for the purpose of paying monies into the Banks of England or Ireland to the account of the said Commissioners as aforesaid shall contain any matter or thing which be false or untrue, then and in every such case the sum so paid shall be forfeited to the said Commissioners.

How monies paid in on savings banks account are to be invested by Commissioners.

19. The said Commissioners shall cause all the monies paid into the Banks of England and Ireland respectively, and placed to their account in pursuance of the provisions of this Act, to be invested from time to time in their names and to be carried to the account herein-before provided, under such regulations as the said Commissioners shall direct, in the purchase of Bank annuities or Exchequer bills or Parliamentary securities of whatsoever kind created or issued or which may hereafter be created

or issued under the authority of any Act or Acts of Parliament for the interest on which provision is made by Parliament, or any stock or debenture or other securities expressly guaranteed by authority of Parliament, and the interest which shall from time to time arise and become due thereon shall in like manner be invested in the purchase of such Government annuities or Exchequer Bills or securities aforesaid.

Quorum of Commissioners.

20. It shall be lawful for any three or more of the Commissioners for the Reduction of the National Debt for the time being to execute and do all matters and things which the said Commissioners are required or empowered to do in the execution of this Act.

On payment of money into the Bank to the account of National Debt Commissioners, their officer shall give a receipt for the same, carrying interest at 3*l.* 5*s.* per cent. per annum.

21. From and after the twentieth day of November one thousand eight hundred and sixty-three all receipts issued prior to that day to the trustees of savings banks established under the said hereby repealed Acts by the Commissioners for the Reduction of the National Debt shall carry interest at the rate of three pounds five shillings per centum per annum; and from and after the said twentieth day of November one thousand eight hundred and sixty-three, upon the payment of any sum or sums of money into the Banks of England or Ireland to the account of the said Commissioners by the trustees of any savings bank established under the said hereby repealed Acts or this Act, it shall be lawful for the officer or officers of the said Commissioners in that behalf, and he and they is and are hereby authorised and empowered to issue, upon every such payment being made, a receipt, signed by one of the cashiers of the Governor and Company of the Bank of England or Ireland, as the case may be, for the amount of such pay-

ment, carrying interest at the like rate of three pounds five shillings per centum per annum from the day of such payment inclusive, payable with the principal at the Bank of England and Ireland respectively whenever the same shall be required or drawn for in manner directed by this Act, and such receipt shall be dated on the day on which the payment of any such sum or sums of money shall be made respectively, and every such receipt shall be in such form as shall be from time to time directed by the said Commissioners, and the principal and interest of all sums mentioned in any receipt shall be charged and chargeable upon, and the same are hereby charged and made payable out of all or any monies standing in any account in the names of the said Commissioners, or out of any monies produced by the sale of any stock, or annuities, funds, or Exchequer bills or other securities standing in their names in the books of the Banks of England and Ireland respectively, as the said Commissioners shall from time to time direct: provided always, that no fractional part less than one penny shall be allowed or paid as interest upon the principal sum contained in any receipt issued under the provisions of this Act.

Interest due on money mentioned in receipt to be calculated half-yearly up to November 20 and May 20, and carried to account of savings bank as additional principal.

22. All interest which shall become due and payable upon any sum of money mentioned in any such receipt upon the twentieth day of November and the twentieth day of May in every year next after the date of any such receipt shall be from time to time calculated and computed by the officer of the said Commissioners, and shall in each and every year be placed to the credit of the savings bank on whose account any such sum of money was paid within six weeks from such twentieth day of November and twentieth day of May respectively,

and shall be carried to and written on the account of such savings bank, and shall become principal, and shall from thenceforth carry interest as principal money paid into the said Bank of England or Ireland, as the case may be, on the account of such savings bank; and a receipt according to such form as the said Commissioners shall approve shall be signed by the officer of the said Commissioners, and shall be issuable by the said officer half-yearly within sixty days from and after such twentieth day of November and twentieth day of May respectively (and such receipts shall bear date the twenty-first day of November and twenty-first day of May respectively) for the amount of such interest so credited and made principal as aforesaid as if the amount thereof had been a payment made by the trustees of such savings bank to the account of the said Commissioners: provided always, that no interest shall be computed or calculated on any fractional part of a pound of the half-yearly balance standing in the books of the said Commissioners on account of any savings bank on any twentieth day of November or twentieth day of May respectively.

No interest to be allowed on any fractional part of a pound.

23. It shall be lawful for the trustees and managers of any such savings bank, if they shall so think fit, to direct that all interest which shall be payable to the depositors in such savings bank shall yearly, or twice in each and every year, be calculated and computed by the trustees of such savings bank, or such person or persons as they shall appoint, and shall be carried to the credit of such depositors respectively, and shall become principal, and shall from thenceforth carry interest in all respects as other principal money deposited in the said banks, or as if the said sum of interest so credited

Interest arising to depositors may be calculated yearly or twice a year and carried to their credit as principal.

to the said depositors respectively had actually been paid to the said depositors and by them repaid to the said trustees and managers, any law, statute, or usage to the contrary notwithstanding: provided always, that from and after the twentieth day of November one thousand eight hundred and sixty-three the interest payable to depositors by the trustees and managers of any savings banks shall not exceed the rate of three pounds and tenpence per centum per annum.

Interest to depositors not to exceed 3*l.* 0*s.* 10*d.* per cent. per annum.

24. Before trustees of any savings bank shall make any order or draft for payment by the said Commissioners of any sum or sums of money under this Act, the trustees of such savings bank shall make, give, sign, and execute an appointment under the hands and seals of not less than two of such trustees, and the execution of which shall be attested by two managers of the same savings bank, empowering and authorising some person or persons named in such appointment to be agent or agents for receiving all and every such sum and sums of money as such trustees shall from time to time require to be paid by such Commissioners, and every such appointment shall be produced by or on behalf of the person or persons named therein to the officer of the said Commissioners fourteen days at least before the payment of any sum or sums of money on account of such savings bank; and such appointment shall remain deposited in the office of the said Commissioners; and every such appointment shall be made in such form and under such regulations as shall from time to time be directed or required or approved of by the said Commissioners or their officer: provided always, that it shall be lawful for the trustees of any savings bank by whom any such appointment shall be made, given, signed, and exe-

Before drawing for money trustees shall assign appointment of agent to receive the same, which appointment shall be deposited with Commissioners.

Appointments may be revoked and others

cuted, or for the survivors or survivor of such trustees, to revoke such appointment by any certificate or other instrument under the hands and seals or hand and seal of such trustees or trustee attested by two managers of such savings bank, and in such form and under such regulations as shall be directed or required or approved of by the said Commissioners or their officer; and in case of the decease of every such trustee except one it shall be lawful for the surviving trustee, together with any other trustee or trustees, being not less than two, of the said savings bank, and in case of the decease of all such trustees, or in case all such trustees shall decline or refuse to act, it shall be lawful for not less than two other trustees of the said savings bank from time to time to make, give, and execute an appointment in manner aforesaid re-appointing the person or persons named in such appointment, or any other person or persons in his or their room or stead, to be the agent or agents of such trustees, and every such certificate or instrument of revocation and every such new appointment shall be produced to the officer of the said Commissioners by the person or persons named in such new appointment fourteen days at least before the payment of any sum or sums of money to the person or persons named in such new appointment, and shall remain deposited in the office of such officer.

granted from time to time.

25. It shall be lawful for the trustees of any such savings bank from time to time (by any draft or order in writing under the hands of any two trustees of such savings bank, attested by two other trustees or managers or by two credible witnesses, according to such form as the said Commissioners for the Reduction of the National Debt shall from time to time direct) to require that the whole or

Trustees may draw for the whole or any part of any sum placed to their account by drafts on Commissioners, which shall be endorsed

by their officer and paid with the interest added thereto by cashiers of the bank.

any part of the principal sum or sums of money standing in the books of the said Commissioners to the credit of the trustees of such savings bank shall be paid to such person or persons as such trustees shall from time to time require, being the agent or agents named in some appointment executed under this Act or the said hereby repealed Acts, and lodged with the officers of the said Commissioners as hereinbefore mentioned and then remaining in force, and every such draft or order shall be addressed to the said Commissioners, and upon the same being produced to the officer of the said Commissioners the said officer shall within five days after the production thereof, upon the back of such draft or order endorse and sign an order in such form as shall from time to time be directed and required by the said Commissioners for the payment of the sum mentioned in the draft or order of such trustees, together with the amount of all interest due on such sum up to the day immediately preceding the day of the date of the order of such officer, and which order of such officer previously to the issuing thereof shall be entered and countersigned by the clerk or other proper officer making such entry, and shall be addressed to the cashiers of the Governor and Company of the Bank of England or Ireland, as the case may be, and such cashiers or one of them shall, upon the production of such order, pay the sum mentioned therein to the person or persons mentioned in the draft or order of the said trustees, and the signature of such persons, jointly or severally, shall be a sufficient discharge to the said Commissioners and to the said Governors and Company respectively, and all payments made in pursuance of such draft or order respectively shall be deemed and taken to be payments made by the said Commissioners to the trustees of

such savings banks respectively according to the numerical order and priority of date in which the original receipts of money deposited on account of such savings banks respectively shall have been issued to the trustees thereof respectively in manner before mentioned.

Draft exceeding 5,000*l.* to be signed by four trustees and attested by separate witnesses.

26. Whenever the sum to be drawn for by the trustees of any savings bank shall exceed five thousand pounds, the draft or order for that purpose shall be signed by not less than four such trustees, and the signature of each and every of the said four trustees shall be separately attested by at least one manager of such savings bank, or some one other credible person; and any manager or other person attesting the signature of any one of the said four trustees shall not be an attesting witness to the signature of any other of such four trustees: provided also, that whenever the sum or sums drawn for by one or more drafts by the trustees of any savings bank, or by the trustees of any friendly society, shall exceed the sum of ten thousand pounds, the amount of such draft or drafts (if more than one) shall not be payable by the officer of the said Commissioners until the expiration of fourteen days next after the day when the draft or drafts for such sum or sums shall be produced to the said officer.

Draft for 10,000*l.* not to be paid until after 14 days.

Officer not to issue in any one day orders for more than 10,000*l.* for the same bank.

27. Such officer shall be and he is hereby restrained from issuing any order or orders for payment as aforesaid, bearing the same date, upon any one day, on account of the same savings bank, exceeding in amount the principal sum of ten thousand pounds, anything herein-before contained to the contrary thereof in anywise notwithstanding.

Trustees appearing in person may

28. In case any one or more trustee or trustees of any savings bank, who shall have made, given,

receive payments of drafts, instead of their agents.

signed, and executed any such appointment, shall at any time appear in person at the office of the said Commissioners in England or Ireland respectively, and require payment of any sum or sums of money which might be required by the person or persons authorised to receive the same by such appointments, or if any trustee or trustees of any savings banks shall appear in person where no appointment shall have been made, and if such trustee or trustees so appearing shall produce a draft or order signed by any two or more trustees of such savings bank for any sum under five thousand pounds, or by any four or more trustees for sums exceeding five thousand pounds, no such trustee or trustees being himself or themselves a party or parties who signed such draft or order, and if the identity of the person of the trustee or trustees so appearing shall be ascertained to the satisfaction of the said Commissioners or their officer, it shall be lawful for the said officer to direct payment to be made to such trustee or trustees so appearing of any sum or sums required to be paid by such order or draft, in like manner as if the person or persons authorised by such appointment to receive the same had required such payment, anything herein-before contained to the contrary in anywise notwithstanding: provided nevertheless, that notwithstanding the payment made to such trustees or trustee appearing in person on the appointment of such person or persons as aforesaid, the appointment shall remain in full force and virtue until revoked by the trustees, as herein-before mentioned.

Such receipt of money by trustee in person not to affect any previous appointment of agents.

From Nov. 20, 1863, surplus to be paid over to Commissioners

29. In all cases where the joint stock or property of any savings bank arising from deposits made under the said hereby repealed Acts or this Act shall, from and after the twentieth day of

November one thousand eight hundred and sixty-three, be increased by the interest received beyond the rate of interest payable to the depositors by the rules and regulations of such savings bank, or by any other means, the said trustees or managers of such savings bank, after deducting all such expenses as they may deem proper, shall, within six months after the twentieth day of November in each year, ascertain, certify, and pay over to the said Commissioners the amount of such increased stock and property, reserving such portion as may appear necessary to meet current expenses, and the amount of such surplus which shall be ascertained, certified, and paid over (after such deduction as aforesaid) shall be discharged from the account of such savings bank standing in the books of the said Commissioners; and the said Commissioners shall keep a separate and distinct account of such surplus so discharged from the account of the said savings banks respectively as aforesaid, and apply the same in such manner and under such regulations from time to time as any other monies under the provisions of this Act: provided nevertheless, that it shall be lawful for the trustees or managers of the said respective savings banks, for the purposes of such savings banks respectively, to claim and receive of and from the said Commissioners (who are hereby required to pay the same upon such certificate as they may appoint) all or any part of the principal monies which may have been already or may be hereafter so discharged from the account of such savings banks respectively as aforesaid under the provisions of the said hereby repealed Acts or of this Act.

for Reduction of National Debt.

Trustees of savings banks may upon a certificate draw on such surplus fund for the purposes of the savings banks.

30. In case the trustees or managers of any savings bank shall receive or shall have received any

How deposits of

minors may be made and paid.

deposit of money from or for the benefit of any person under the age of twenty-one years, it shall be lawful for the trustees or managers of such savings bank to pay such person his or her share and interest in the funds of such savings bank, and the receipt of such person shall be a sufficient discharge notwithstanding his or her incapacity or disability in law to act for himself or herself.[1]

How deposits by married women may be made and paid.

31. It shall be lawful for the trustees and managers of any savings bank to pay any sum of money in respect of any deposit already made or to be made by married women, or by women who may marry after such deposit, to any such woman, unless the husband of such woman shall give to such trustees or managers notice in writing of his marriage with such woman, and shall require payment to be made to him.[2]

How funds of charitable societies, &c., and penny savings banks may be invested.

32. It shall be lawful for the trustees or treasurers of any charitable or provident institution or

[1] The Infants' Relief Act, 1874 (37 & 38 Vict. c. 62), whilst rendering absolutely void, amongst other things, all 'accounts stated with infants,' specifically provides that 'any contract into which an infant may by any existing or future statute . . . enter, except such as now by law are voidable,' is not to be thereby invalidated. It would appe r, therefore, that an infant can still give valid discharges under this section.

It need hardly be pointed out that the section does not apply to infants claiming through depositors, but only to infant depositors. It has been held by the Registrar that an infant widow of a depositor cannot give a discharge. (See notes on 7 & 8 Vict. c. 183, s. 2, *post*.)

[2] This section only applies now to deposits made prior to the Married Women's Property Act, as to which see *post*, pp. 128–131. The enactment, it will be observed, gives a mere right to receive the money to the woman herself. She has no power under it to dispose of her deposits by will, and at her death the husband takes them without administration *jure mariti*. It need hardly be pointed out that it applies only to depositors being married women, and not to married women claiming through them.

society, or charitable donation, or bequest for the maintenance, education, or benefit of the poor,[1] or of any penny savings bank,[2] within the United Kingdom

[1] Cf. s. 27 of 9 Geo. IV. c. 92. The words 'for the maintenance, education, or benefit of the poor' have been held by the present Chief Registrar not to qualify the whole of the sentence, but only the terms 'charitable donation or bequest.' Thus any charitable or provident institution or society is entitled to the benefit of the section. The receipt should be that of the trustees, if any, or if none, then of the treasurer. Cf. s. 29 of 9 Geo. IV. c. 92, and note thereon, *post*.

Both under 9 Geo. IV. and under the present Act trades unions (whether registered or unregistered) may come within the term 'provident institutions.' Thus it has been considered by the barrister that provision made in the rules for promoting emigration and obtaining compensation for accident are sufficient to bring a trades union ('The National Union of Miners,' Feb. 16, 1876) within this section. On the other hand, it has been held that a temporary fund entrusted to a few does not constitute a charitable or provident society, and that there must be some definite organisation. Thus a temporary church-building fund was not considered to come within the definition. But a fund instituted to provide for police constables 'when worn out and disabled,' and for their widows (the 'St. Albans Police Superannuation Fund'), was held to be a provident society, though the contributions were compulsory.

Deposits which come within the terms neither of the present section nor of section 33 can only be accepted as those of individuals, and within the limits allowed to individuals.

[2] The Report of the Postmaster-General for 1875 states that authority was given to 149 penny banks to deposit their funds in the Post Office Savings Bank, the rules of one of them providing for the receipt of farthing deposits. The increase of such institutions in schools is particularly noted, especially in those of the London School Board, though they have been also established in schools under the Boards at Birmingham, Bampton (Cumberland), Buckhurst Hill, and Norwich. From a statement published by Mr. Scrutton (one of the members of the London School Board), which is referred to in this report, it appears that in 44 of the banks organised in the schools of the Board, 5,266 children deposited 1,124*l.*, showing an average of nearly 4*s.* 3½*d.* per head, and that at the end of the year the sum of 218*l.* remained to the credit of the

of Great Britain and Ireland, to invest, with the approval of the Commissioners for the Reduction of the National Debt or the Comptroller-General acting under them, and under such regulations as shall be prescribed by them in that respect, the funds of such institution or society, without restriction as to amount, into the funds of any savings bank established under the provisions of the said hereby repealed Acts or of this Act, and also without such approval of the said Commissioners to invest from time to time, if the trustees and managers of such savings bank shall be willing to receive the same, any part of the funds of such institution or society or penny savings bank to the amount of one hundred pounds per annum: provided in such last cases the amount of the sum to be invested by any such institution or society or penny savings bank shall not at any time exceed the sum of three hundred pounds in the whole, exclusive of interest.

How friendly societies duly enrolled, &c. may invest.

33. It shall be lawful for the trustees or treasurers of any friendly society legally enrolled or certified in the manner required by the Acts in force relating to friendly societies to invest any sum of money the property of such society, without restriction as to amount, into the funds of any savings bank established under the provisions of the said hereby repealed Acts or of this Act, and which shall be willing to receive the same, under such terms and conditions as shall be specially provided for that purpose by the rules, orders, and regulations of such savings bank.[1]

depositors. (See Appendix K to the 22nd Report of the Postmaster-General, which is extracted from the Report of the Controller of the Post Office Savings Banks.)

[1] Cf. s. 28 of 9 Geo. IV. c. 92, and note thereon, *post*.

Under the existing Friendly Societies Acts, friendly societies are 'registered,' not enrolled or certified, but

34. The receipt of the treasurer, trustee, or other officer for the time being of any such charitable or provident institution or society, penny savings bank, or friendly society, for any money paid according to the requisition of such treasurer, trustee, or other officer apparently authorised to require such payment,[1] shall be a sufficient discharge for the same, and the savings bank paying such money, and the trustees, managers, and officers thereof, shall not be responsible for any misapplication or for any want of authority of the person or persons requiring or receiving payment of such money.

Receipt of trustee, &c. of any charitable society, penny savings bank, or friendly society, deemed sufficient discharge.

35. No person who is or shall be a member of any friendly society established or to be established under and by virtue of any Act or Acts relating to friendly societies, or a member of any of the charitable institutions or penny savings banks hereinbefore mentioned, shall, by reason of such person being or becoming a depositor in any savings bank taking the benefit of this Act, be considered as subject or liable to any penalty, forfeiture, or disability declared, or expressed or intended so to be, by or in the rules, orders, or regulations of such friendly society, charitable institution, or penny savings bank respectively, any rules, orders, or regulations of such friendly society, charitable institution, or penny savings bank made or hereafter to be made to the contrary notwithstanding: provided also, that no

Members of friendly or charitable societies or penny savings banks not liable to disability in those societies by subscribing to any savings bank under this Act.

all societies enrolled or certified under the Acts repealed by the 38 & 39 Vict. c. 60 are deemed to be societies registered under that Act. Unregistered friendly societies are not entitled to the benefit of this section.

[1] In taking a receipt for money deposited on behalf of a society, it is not for the savings bank to look beyond the 'officer apparently authorised;' but if a claim is made by other parties, payment should be stopped till the dispute so raised be decided by the registrar.

Proviso for depositors belonging to societies, &c.

depositor shall be subject or liable to any penalty or forfeiture on account of his belonging to or being interested in the funds of any friendly society or charitable institution or penny savings bank deposited in the same or any other savings bank.[1]

No sum to be subscribed without the name and profession, &c., of the depositor.

36. No sum shall be paid into any savings bank by any person or persons by ticket or number or otherwise, without disclosing to the trustees and managers of such savings bank his or her name, together with his or her profession, business, occupation, calling, and residence, and the trustees and managers of every savings bank are hereby required to cause the name of such depositor, together with his or her profession, business, occupation, calling, and residence, to be entered in the books of the savings bank.[2]

Persons allowed to deposit as trustees on behalf of others.

37. It shall be lawful for the trustees and managers of any savings bank to receive from any person or persons acting as trustee or trustees on behalf of any depositor or depositors, whether such person or persons is or are himself or themselves a depositor or depositors in the same or any other savings bank or not, any sum or sums not exceeding the annual amount herein-after mentioned, provided that such trustee or trustees shall make such declaration on behalf of such depositor or depositors, and subject to the like conditions as by this Act is required in the case of any person or persons making any deposit on his or her own account, and all deposits made by any such trustee or trustees shall be inserted in the books of such savings banks in the

[1] Cf. s. 30 of 9 Geo. IV. c. 92.

[2] Cf. s. 32 of 9 Geo. IV. c. 92.

The present Chief Registrar has been of opinion (contrary to that of his predecessor, Mr. Tidd Pratt) that the Savings Banks Acts do not contemplate joint deposits, otherwise than in the case of trustees.

joint names of such trustees or trustee and of the person or persons in whose account such sum shall be so deposited, and the receipt and receipts of such trustee or trustees, or the survivor of them, or the executors or administrators of any sole trustee or surviving trustee, with or without the receipt of the person or persons on whose account such sum may have been deposited, shall, provided such account shall have been opened before the ninth day of August one thousand eight hundred and forty-four, be a good and valid discharge to the trustees and managers of the savings bank: Provided always, that in respect to all such deposits made after the said ninth day of August one thousand eight hundred and forty-four repayment of the same or any part thereof shall not be made by the trustees and managers of any savings bank without the receipt and receipts of the said trustee and the person on whose account such deposit may have been made, or the survivor or survivors, or the executors or administrators of such survivor, whose receipt and receipts, either in person or by agent appointed by power of attorney, which power of attorney shall be valid if executed by an infant of or exceeding the age of fourteen years, shall alone be a good and valid discharge to the said trustees and managers, except in case of the insanity or imbecility of the party on whose behalf the deposit had been made, upon proof of which, to the satisfaction of the said trustees and managers, repayment may be made to the said trustee, and an abstract of the above provisions shall be enrolled as one of the rules of all savings banks.[1]

How repayment on trust accounts is to be made.

[1] With regard to trust accounts may be noticed an award *Re Emmerson*, December 12, 1876. There a testator directed, *inter alia*, that a legacy should be paid out

Depositors in one savings bank

38. It shall not be lawful for any person or persons who shall have made any deposit in or who

of one of his estates to his housekeeper, and the surplus of the said estate divided equally amongst his legatees. He appointed his three nephews executors, one of whom, after acting five or six years, died, when his father was appointed as agent in his place to collect the rents of the estate and pay the legacy, and was directed to invest the surplus in the Leeds Savings Bank. He deposited the sum as directed, but in his own name, as trustee of the will, and then died leaving no will. On the refusal of the bank to pay to the surviving executors, the matter was referred to the Registrar, who having obtained a declaration from a son of the deceased, stating that the money was their property, awarded that payment might be made to them.—When a sum was deposited in trust for a nephew who died intestate by an uncle who survived the *cestui que trust*, but also died intestate, leaving a widow surviving him, and no letters of administration had been taken out to either, the deposit being claimed by the mother and brother of the nephew, the barrister-at-law awarded payment to them in equal portions—*Re Savage*, March 5, 1872. As decided in Crisp *v.* Bunbury (see Appendix B and chapter on the Jurisdiction of the Barrister), the jurisdiction of the common law is ousted by the statute. Thus where monies deposited by a father in a savings bank in Scotland in the names of two sons, minors, were claimed by him in accordance with the Scotch law relating to tutors and pupils, the bank refused to repay the money till the minors were of sufficient age to receive the same, and the barrister on a reference to him under section 48, made an award to the same effect—*Re Sutherland*, June 22, 1874. A trust account was opened in the Gosport Savings Bank by a man in favour of a woman with whom he was intimate. Both the trustee and *cestui que trust* died, and the bank being about to close many years after, advertised the account among those unclaimed. A sister having proved on examination on oath that she was the sole surviving next-of-kin of the *cestui que trust*, the barrister-at-law awarded payment to her.—*Re Olding*, June 16, 1872.

Parties, however, will not be allowed to claim under an informal instrument. Thus a spinster, who deposited in the Great Yarmouth Savings Bank, married and went with her husband to Antigua, where she died. Shortly before his death, the husband sent an informal order to his sisters-in-law in England (who still retained the deposit book) authorising them to receive the money.

shall be entitled to any benefit from the funds of any savings bank (unless such benefit shall be derived solely as executor, administrator, or other personal representative of any deceased depositor in the same or any other savings bank) to make any deposit in any other account at the same or any other savings bank; and that every person desirous of making any deposit in any savings bank shall at the time of the making the first deposit in any savings bank, and at such other time or times as such depositor shall be required so to do by the trustees and managers of any such savings bank, make a declaration signed either by themselves, or in case of infants under the age of seven years by some person to be approved by the trustees and managers, or by such other person as they shall appoint, in such form as shall be directed or approved of by the Commissioners or other proper officer, that the person or persons on whose behalf any such first deposit shall be required to be made is not or are not entitled to any deposit or any such subsequent deposit in, or any benefit from the funds of any savings bank other than that into which such deposit shall be made, or any other funds in the said savings bank; and in case any such declaration shall not be true, or if any person shall at any time have or hold or be possessed of any deposit or funds in more than one savings bank within the United Kingdom,

shall not deposit in any other savings bank.

Declaration to be made at the time of deposit.

Penalty on false declaration, forfeiture of deposit to the Sinking Fund.

On their application after his death, the bank, however, refused to them on the ground that the deposits belonged to the surviving next of kin of the husband, and that the instrument under which they claimed was imperfect, and the barrister made an award to that effect.—*Re Warburton*, March, 1872.

In the case of a lunatic trustee, the barrister has awarded payment on the receipt of the *cestui que trust* alone.—*Re Pennington*, June 10, 1876.

except as aforesaid, every such person shall, if in the opinion of the barrister-at-law such deposit was made with a fraudulent intention, forfeit and lose all right and title to any deposit in or to any funds of any and every such savings bank, and the trustees and managers of such savings bank shall and they are hereby required in such case to close the account of such depositor, and to cause the sum or sums so forfeited to be forthwith paid into the bank of England or bank of Ireland, as the case may be, to the account of the Commissioners standing in the books of the governors and company of the said bank respectively under the title of 'The Account of the Commissioners for applying certain Sums of Money annually to the Reduction of the National Debt,'[1] and the cashier or cashiers of the said

[1] The forfeitures enacted by this section, it will be observed, are incurred in five cases, viz. (1) that of an untrue declaration; (2) that of two or more deposits by the same depositor in the same bank; (3) that of two or more deposits by the same depositor in different banks; (4) that of a deposit by a person already interested in another deposit in the same bank; (5) that of a deposit in one bank by a person already interested in a deposit in some other bank. The second case is the one of most rare occurrence, but may arise through the same person depositing money in different names. The third and fifth are rarely discovered till the death of the depositor. The fourth is probably the most frequent, inasmuch as in order to evade the restrictions of the Act as to the limit of deposits persons too often open accounts in the names of relatives or friends, or pay in money to their accounts. It must be observed that a Post Office Savings Bank comes within the term 'other savings bank' in the section, so that a person cannot legally hold or be interested in two accounts, one in a Trustee Savings Bank and the other in a Post Office Savings Bank.

The question of fraudulent intention (which under the Savings Bank Barrister Act, 1876, has now to be determined by the Solicitor to the Treasury) is always one of fact. Whenever the effect of the transaction is that the person holds or is interested in a larger total amount

governors and company respectively is and are hereby required to receive all such sums, and to place the same to the said account, to be applied in like manner as all other money placed to the said account; and every such declaration so made shall be filed and kept and preserved by the trustees of every such savings bank, and a printed notice of such regulation and prohibition shall be affixed in the office or place appointed for the receiving of deposits of any savings bank in such form as the said Commissioners or their proper officer shall from time to time direct or require or approve; and a copy of such declaration, with notice of the penalty attached thereto (if false), shall also be annexed to or printed at the beginning of the deposit book.[1]

Declarations shall be filed, and notice thereof and of the penalty attached thereto to be placed in deposit book.

than the law would allow, the presumption of intended fraud is always strong.

In the case of a trust account, the fraudulent intention must be that of the person beneficially interested, see *Re de Bray*, *post*, p. 115; and the same principle applies wherever money was deposited in fraud of the true owner, see *Re Simms*, *post*, ibid.

The exception in the parenthesis, 'unless such benefit shall be derived solely as executor, administrator, or other personal representative of any deceased depositor in the same or any other savings bank,' must be borne in mind. Where a married woman had an account in her own name, and her husband another in the same bank, and on his death she took out letters of administration and claimed both deposits, the total amount being more than 200*l.*, although neither separately exceeded that sum, it was held by the barrister that fraud was not to be presumed, and that the bank was not justified in withholding payment on the mere suspicion that the deposit made in the wife's name was intended for the husband's use.—*Re Gilroy*, March, 1876.

It may not be amiss to observe that the forfeiture enures to the benefit of the Commissioners for the Reduction of the National Debt, and that the Treasury has no power to remit it.

[1] Cf. as to Post Office Savings Banks, s. 34 of 9 Geo. IV. c. 92, as re-enacted in s. 3 of 7&8 Vict. c. 83, and *vide* chapter on the jurisdiction of the barrister. The award *Re Fox*,

Trustees not to receive from any one depositor more than 30*l.* in any one year, nor more than 150*l.* in the whole.

39. It shall not be lawful for the trustees of any savings bank to receive from any one present or future depositor, within any one year ending on the twentieth day of November (whether any sum or sums of money had been previously withdrawn or not), any sum or sums exceeding in the whole thirty pounds, exclusive of compound interest, nor to receive from any depositor any sum or sums of money whatever which shall make the sum to which such depositor shall be entitled exceed the sum of one hundred and fifty pounds in the whole, exclusive of interest as aforesaid: Provided always, that, except in the cases herein-after provided, whenever the sum or sums standing in the name of any depositor shall amount in the whole to two hundred pounds, principal and interest included, thenceforth no interest shall be payable on any such deposit so long as it shall continue to amount to the said sum of two hundred pounds :[1] Provided also, that nothing in this Act contained shall prevent or be construed to prevent the trustees of any savings bank from paying interest to any depositor whose deposit on the twenty-eighth day of July one thousand eight hundred and twenty-eight amounted to and has since continued to amount to or exceed the sum of two hundred pounds; nor to prevent any depositor, having closed his or her account in any savings bank, from making a deposit in the same or any other savings bank, not exceeding the limit allowed to be received in any one year from any new depositor.

When deposit and interest amount to 200*l.* interest to cease.

Not to affect deposits of 200*l.* on July 28, 1828.

Depositors not prevented from becoming new depositors.

noticed in note on s. 34 of 9 Geo. IV. c. 92, relates to this section.

[1] A depositor whose deposits have reached 200*l.* must therefore, it would seem, withdraw before November 20, if he does not wish to forfeit his interest.

40. If any depositor in any savings bank shall desire to transfer the amount of his deposit to any other savings bank, he shall, upon application at the savings bank in which his account shall be open, be furnished with a certificate stating the whole amount which may be due to him, with interest, and thereupon his account at such savings bank shall be closed, and upon delivery of such certificate to the trustees or managers of the savings bank to which it is proposed by the depositor to transfer such deposit they shall forthwith, upon such depositor's signing such declaration as is required in the case of a new depositor, open an account for the amount stated in such certificate for such depositor, and the amount stated in such certificate shall, upon such certificate being forwarded to the Commissioners for the Reduction of the National Debt, be transferred in the books of the said Commissioners from their account with the trustees of the savings bank issuing such certificate to the credit of the said Commissioners' account with the trustees of the savings bank receiving such certificate; and every such certificate for transfer for the purpose aforesaid shall be in such form as is set forth in the schedule hereunto annexed marked B.[1]

How depositors may transfer their deposits to any other savings bank.

41. In case any depositor in the funds of any savings bank taking the benefit of this Act shall die leaving any sum or sums of money in the said

Depositor dying leaving any sum exceeding 50*l.*, the

[1] No specific term of notice, it will be observed, is required by the Act for a transfer, which, it would seem, cannot be assimilated to a payment, as no money actually changes hands.

See as to transfers between Trustee and Post Office Savings Banks s. 10 of the 24 Vict. c. 14; and as to transfers of the accounts of minors, and the appointment of managers to sign transfer certificates, the 26 Vict. c. 14, ss. 1 and 5, *post*. The amount stated in the certificate appears to be conclusive upon the depositor.

same not to be paid until after administration.

funds, or any dividends or interests due thereon, belonging to him or her at the time of his or her death exceeding in the whole the sum of fifty pounds, the same shall not be paid to any person or persons as representative or representatives of such depositor but upon the probate of the will of the deceased depositor, or letters of administration of his or her estate and effects: Provided always, that where the whole estate or effects of any such deceased depositor, for or in respect of which any probate or letters of administration respectively shall be granted, shall not exceed the value of fifty pounds,[1] no stamp duty shall be chargeable thereon, nor upon any legacy or residue or part thereof bequeathed, nor upon any share or part of the estate or effects to be paid or distributed by or under such probate or letters of administration: Provided also, that in every such case the person or persons claiming such probate or letters of administration free from stamp duty under this Act shall, in such case, exhibit to the court or person having authority to grant the probate or letters of administration a certificate of the amount of the principal money and interest which the deceased depositor had in the funds of the said savings bank, which certificate shall be granted in such form and manner as shall have been settled by the rules or regulations of the savings banks respectively, and shall be signed or testified by such person or persons as shall be directed therein, and every such certificate shall be taken and received by the court or person having authority to grant such probate or letters of administration as evidence of the amount of the deposit and interest of the

No duty to be paid on probate when the estate is under 50*l.*

Certificate of amount and value of depositor's interest to be produced on claiming probate, &c.

[1] Under the 27 & 28 Vict. c. 56, s. 5, no stamp duty is chargeable on probate where the estate does not exceed 100*l.* in value.

deceased depositor in the funds of the savings bank.[1]

Administration bonds, &c. for effects under 50*l.* exempted from stamp duty.

42. In all cases where the whole estate and effects of any deceased depositor for or in respect of which letters of administration shall be granted shall not exceed the value of fifty pounds sterling,[2] no stamp duty shall be chargeable upon the bond required to be given by the administrator for the due administration of the effects of such deceased depositor, nor upon any affidavit or document leading to or connected with such administration, but every such bond and affidavit shall be exempted from stamp duty in like manner and under the like regulations as are provided in and by this Act with respect to such letters of administration.

When deposits and interest do not exceed 50*l.*, exclusive of interest, if will, &c. not proved within month, money may be paid to widow or to party entitled to effects of deceased.

43. In case any depositor in any such savings bank shall die leaving any sum of money in the said savings bank belonging to him or her at the time of his or her death, not exceeding in the whole the sum of fifty pounds, exclusive of interest, and probate of the will of the deceased depositor, or letters of administration of his or her estate and effects, is not produced to the trustees and managers of the said savings bank, or if notice in writing of the existence of a will and intention to prove the same or to take out letters of administration is not given to the said trustees and managers within the period of one month from the death of the said depositor, and in

[1] Cf. sections 43 and 46. This section does not apply to a husband claiming his deceased wife's deposits *jure mariti*; see notes on section 31, *ante*. The probate spoken of in this section, and, it would seem, in section 43, must be probate according to the law of the United Kingdom.

[2] Under the 27 & 28 Vict. c. 56, s. 5, no stamp duty is chargeable on letters of administration when the estate does not exceed 100*l.* in value.

the latter case unless such will is proved or letters of administration taken out within the period of two months from the death of the said depositor, it shall be lawful for the said trustees and managers of any savings bank to pay and divide the same to or amongst any person or persons who shall appear to such trustees and managers to be the widow or entitled to the effects of such deceased depositor, according to the Statute of Distribution or according to the rules of the said savings bank.[1]

Payment to persons appearing to be the next of kin declared valid.

44. The payment of any such sum of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased depositor, or as the lawful representative or representatives of such depositor, against the funds of such savings bank, or against the trustees and managers thereof; but, nevertheless, such next of kin or representatives shall have remedy for recovery of such money so paid as aforesaid against the person or persons who shall have received the same.

Remedy for next of kin.

[1] As to Post Office Savings Banks, cf. s. 10 of 7 & 8 Vict. c. 83. This section has been held by the Registrar not to authorise payment to one out of several persons entitled save where the rules of a savings bank so permit.

Donationes mortis causa are not recognised under this or the Post Office Savings Banks Acts. Thus where the monies of a deceased depositor in the Liverpool Savings Bank were claimed under such a gift, the Registrar awarded that only expenses incurred for her funeral could be paid to the claimant, on production of satisfactory vouchers to the Bank.—*Re Robinson*, October 27, 1876.

When some special mode of payment otherwise than to the widow, or according to the statute is intended, it must be specified in the rules. The barrister has refused to certify a rule for payment 'to or amongst such persons as the trustees may direct.'

Cases may arise under this section where the death of the depositor can only be established by presumption. Thus an award was made by the barrister for the payment

45. Payment of any money by any such savings bank as aforesaid to any person or persons having had granted to him any letters of administration to the effects of a depositor, or probate of his will, or testamentary disposition granted by any ecclesiastical court, and appearing to be in force, shall be valid and effectual with respect to any demand of any other person or persons as the lawful representative or representatives of such depositor against the funds of such savings bank, or against the trustees and managers thereof;[1] but, nevertheless, such lawful representative or representatives shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same.

Payments under probates of will, &c. appearing to be in force shall be valid.

46. If any depositor in any such savings bank, being illegitimate, shall die intestate, leaving any person or persons who but for the illegitimacy of such depositor would be entitled to the money due to such deceased depositor, it shall be lawful for the trustees and managers of such savings bank, with

Payment on death of depositor being illegitimate and intestate.

of the deposits made in the name of a person who had not been heard of for twenty-six years, to his only surviving brother and next of kin.—*Re Barnes*, June 1, 1876. Shorter periods have been allowed to establish a presumption of death in other cases—in one instance, ten years.

The question of a presumption of survivorship may also be involved. In a case where husband and wife were supposed to have perished at sea, and the deposits were claimed by the next of kin of both, the barrister was of opinion that the presumption was rather in favour of the survivorship of the husband.

[1] Under this section, where the uncle of an illegitimate depositor had obtained letters of administration by concealing the fact of the illegitimacy, the barrister was of opinion that whilst the administration remained unrevoked, the receipt of the administrator would be a valid discharge to the trustees and managers of the savings bank.

the authority in writing of the barrister appointed to certify the rules of savings banks to pay the money due to such deceased depositor to any one or more of such persons as in their opinion would have been entitled to the same according to the Statute of Distributions if the said depositor had been legitimate;[1] or if there be no such persons,[2] then that it shall be lawful for the said trustees or managers, with the authority in writing of the said barrister, to

[1] Compare the different wording of the enactment in this respect as to Post Office Savings Banks in 7 & 8 Vict. c. 83, and *vide* chapter on the jurisdiction of the barrister. This section, it should be observed, does not operate to oust legitimate next of kin, who, if there are any, claim by title paramount. Thus the barrister has held that if an illegitimate depositor dies leaving none but illegitimate next of kin, payment may be authorised to them as if they were legitimate, but that if such depositor leaves legitimate next of kin, they alone will be entitled. When the deposits of an illegitimate son were claimed both by his putative father and mother, the barrister held that they might be paid to the latter, and that the putative father had no claim. Also, in accordance with the decision of his predecessors, that in such cases letters of administration, though strictly speaking necessary under the Act, need not be required though the sum exceed 50*l*., it being impossible to take out administration by right of kinship to bastards dying without issue. With regard to the parties to whom payment may be authorised, the circumstances of each particular case must be considered, and no rule can be laid down, except that only maternal next of kin are now recognised.

It need hardly be observed that the section gives no claim to the illegitimate next of kin of depositors who are themselves legitimate. The illegitimacy is that of the depositor only; and thus, where a mother survived her illegitimate daughter, she was held to be solely entitled, to the exclusion of an illegitimate brother of the deceased.—*Re Howell*, August 4, 1876.

[2] The authority to pay to a person approved by the Treasury, it must be observed, can only be given where in the opinion of the Barrister (now the Solicitor to the Treasury) there is no person who is entitled under the previous part of the section.

pay the amount due to such deceased depositor to such person or persons as shall be approved by the Commissioners of Her Majesty's Treasury, such approval to be signified to the trustees and managers of the savings bank by the Commissioners for the Reduction of the National Debt.

Adaptation of the provisions of this Act to the law of Scotland.

47. Where this Act provides for payments made or to be made to any of the relations of any deceased intestate depositor according to the Statute of Distribution, the provisions thereof shall be held in Scotland to apply to payments made or to be made to persons appearing to be next of kin according to the law of Scotland; and where this Act refers to probate of the will of the deceased or letters of administration of his or her estate and effects, the said provisions shall in Scotland be held to apply to confirmation by the law of Scotland.

Settlement of disputes.

48. If any dispute shall arise between the trustees and managers of any savings bank and any individual depositor therein, or any executor, administrator, next of kin, or creditor or assignee of any depositor who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next of kin, creditor, or assignee, or to be entitled to any money deposited in such savings bank, then and in every such case the matter in dispute shall be referred in writing to the barrister at-law appointed under the said hereby repealed Acts or this Act, who shall have power to proceed *ex parte* on notice in writing to the said trustees or managers left or sent through the post office by the said barrister to the office of the said savings bank, and whatever award, order, or determination shall be made by the said barrister shall be binding and conclusive on all parties, and

shall be final to all intents and purposes, without any appeal.[1]

[1] Cf. as to Post Office Savings Banks, s. 14 of 7 & 8 Vict. c. 83, and *vide* chapter on the jurisdiction of the barrister. Note also the decisions in *Crisp* v. *Bunbury*, and *Lynch* v. *Fitzgerald*, in Appendices B. and C.

It would be of course impossible to enumerate all the different grounds on which persons may 'claim to be entitled' to deposits, but the following are some of the more usual grounds of claim.

1. Creditors for funeral expenses, where not satisfied out of other assets. This claim is always allowed, within reasonable limits. In Scotland (but not in England) a claim for the expenses of the last illness appears also to be preferential. But a mere creditor of the deceased who does not take out letters of administration has not been held to be a person entitled under the section. A larger sum (see *post*, p. 130) should not be allowed for funeral expenses than would be allowed in an administration suit, considering the station in life of the deceased.

2. Creditors for the expenses of the maintenance of a lunatic. This claim generally arises under the Pauper Lunatics Act, 26 & 27 Vict. c. 17, of which section 104 is as follows:

'If it appear to any justice or justices by this Act authorised to make any order for the payment of money for the maintenance of any lunatic that such lunatic has an estate, real or personal, applicable to his maintenance, and more than sufficient to maintain his family, if any, he or they shall, by an order under his or their hand and seal or hands and seals, direct the overseers of the parish, or a relieving officer of the parish or union, or the treasurer or some other officer of the county to which such lunatic is chargeable, or in which any property of the lunatic may be, or an officer of the asylum in which the lunatic may be, to seize so much of any money, and to seize and sell so much of the goods and chattels, and to take and receive so much of the rents and profits of the lands and tenements of such lunatic and other income of such lunatic, as may be necessary to pay the charges of the examination, bringing before a justice or justices, removal, lodging, maintenance, clothing, medicine, and care of such lunatic, accounting for the same to such justice or justices, such charges having been first proved to the satisfaction of such justice or justices, and the amount set forth in such order; and if any trustee or other person having the possession, custody, or charge of any property of such lunatic, or if the Governor and Com-

49. On any such reference it shall be lawful for the said barrister and he is hereby authorised to pany of the Bank of England or any other body or person having in their or his hands any stock, interest, dividend, or annuity belonging or due to such lunatic, pay any money according to any such order, or pay any money without any such order, to the guardians of any union or parish, or to any overseer of any parish not in a union or under a board of guardians, or to the treasurer of any county, or any other officer of any county authorised to receive the same, to defray the charges paid or incurred by or on behalf of such parish, union, or county for the examination, bringing before a justice or justices, removal, lodging, maintenance, clothing, medicine, and care of such lunatic, the receipt of the person authorised to receive such money under such order, or of such guardians, overseer, or treasurer, or other officer, shall be a good discharge to such trustee, governor, and company, or other body or person as aforesaid.'

On reference barrister may inspect books and

(The term 'lunatic' in the above section includes, as defined by ss. 1 & 2 of the Act, persons of unsound mind and idiots. Maintenance would seem to include the allowance authorised to be made by the visitors to lunatics, when discharged or permitted to be absent on trial, under s. 79.)

It is always advisable for the officers of a savings bank to obtain a justices' order before payment under the above section, but an order from a single justice is sufficient. The Registrar has been of opinion that the section does not apply after the death or discharge of a lunatic. Thus where a depositor in a Post Office Savings Bank, having become a lunatic, was cared for by a union, and the guardians took possession of her deposit book and after discharging her as cured claimed payment for her expenses whilst under their care, and presented an order of justices for the purpose, the Registrar held that s. 104 of the Pauper Lunatics Act contemplates the case only of an existing lunacy, and that as the order of the justices was made after the patient ceased to be an inmate of the asylum, the guardians had not shown sufficient ground for payment to them. Again where a union claimed payment out of deposits for the expenses of the maintenance of a pauper lunatic during three years as well as payment of the funeral expenses of such pauper, it was awarded that only the latter could be paid.—*Re Lightfoot*, March 16, 1877.

Although the two instances above noted arose under the Post Office Savings Banks Acts, their principle has been applied in cases of Trustee Savings Banks.

administer oath to witnesses.

inspect any book or books belonging to the said savings bank relating to the matter in dispute,[1] and to administer an oath to any witness appearing before him, or to take the affirmation in cases where affirmation is allowed by law instead of oath;[2] and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Powers of attorney

50. No power, warrant, or letter of attorney

It may be observed here that where the pauper is not a lunatic, the present Registrar, following the practice of his predecessors, has held that s. 16 of 12 & 13 Vict. c. 103 is not applicable to savings bank deposits, and that consequently the guardians have no claim to reimbursement out of them for the expenses of his maintenance. (See however as to annuities, note to s. 19 of the 27 & 28 Vict. c. 43.)

3. The Crown where no next of kin are to be found.

Under the Treasury Solicitor Act, 1876, (39 & 40 Vict. c. 18) this claim would seem now (see s. 4) to rest in the Solicitor to the Treasury. Until now, great liberality has been shown by the Treasury in the disposal of monies thus vested in the Crown, wherever a meritorious though not legal title could be shown. It would appear that under the Act above referred to, no latitude of disposal is now possible, but unless a person 'satisfies the Treasury of his right' under an administration grant to the whole or any part of the money, it must be paid into the Exchequer.

Cf. notes on section 2 of the Married Women's Property Act.

Savings bank deposits are not 'naval assets' within the terms of the 28 & 29 Vict. c. 111 and of the Order in Council of December 28, 1865.

[1] Cf. as to Post Office Savings Banks, s. 15 of 7 & 8 Vict. c. 83, and *vide* the chapter on the jurisdiction of the barrister, and see also the Bankers' Books Evidence Act, 1876, *post*.

[2] The enactments as to taking of affirmations in lieu of oaths are:

3 & 4 Will. IV. c. 49, for the benefit of Quakers and Moravians.

3 & 4 Will. IV. c. 82, for the benefit of Separatists.

granted to or to be granted by any person or persons, or trustee or trustees of any savings bank as aforesaid, nor any power, warrant, or letter of attorney given by any depositor or depositors in the funds of any such savings bank to any other person or persons authorising him, her, or them to make any deposit or deposits of any sum or sums of money in the said funds on behalf of the said depositor or depositors, or to sign any document or instrument required by the rules or regulations of such savings bank to be signed on making such deposits, or to receive back any sum or sums of money deposited in the said funds, or the dividends or interest arising therefrom, nor any receipt nor any entry in any book of receipt for money deposited in the funds of any such savings bank, nor for any money received by any depositor, his or her executors or administrators, assigns, or attornies, from the funds of such savings bank, nor any draft or order, nor any appointment of any agent or agents, nor any certificate or other instrument for the revocation of any such appointment, nor any surety-bond, nor any submission to, or award, order, or determination of the said barrister, nor any other instrument or document whatever required or authorised to be given, issued, signed, made, or produced in pursuance

given by trustees or depositors and other documents not liable to stamp duty.

1 & 2 Vict. c. 77, for the benefit of persons who have been Moravians and Quakers, but object to taking oaths.

17 & 18 Vict. c. 25 s. 20, for the benefit of witnesses unwilling to be sworn in any civil court. (Common Law Procedure Act.)

32 & 33 Vict. c. 8 s. 4 (explained by 33 & 34 Vict. c. 49), entitled 'an Act to amend the Law of Evidence,' and enacting that declarations may be taken in lieu of oaths in certain cases by witnesses in courts of justice and legal proceedings.

Any false declaration or affirmation under these Acts incurs the same penalty as wilful or corrupt perjury.

of this Act, shall be subject or liable to or charged with any duty or duties whatsoever.

Appointment of auditors in Ireland.

51. The trustees of each savings bank in Ireland shall, as soon as conveniently may be after the passing of this Act, and from time to time in case of a vacancy, appoint an auditor or auditors to audit the accounts of the said savings bank, as well as to examine and inspect the books of the several depositors, and the said trustees shall immediately after such appointment, transmit the signature, name, and address of the said auditor or auditors to the Commissioners for the Reduction of the National Debt; and the trustees of every such savings bank in Ireland shall cause the annual and other statements required to be transmitted under this Act to be certified and verified by the auditor or auditors appointed by the said trustees, in addition to the attestation by trustees and managers, as also required by this Act, and shall also cause a certificate from the said auditor or auditors, as to the result of his or their examination of such of the depositors' books as may have been produced to him or them for examination, to be transmitted with the said annual statement to the said Commissioners: Provided always, that it shall be lawful for the trustees of any such savings bank in Ireland to agree with the trustees of any other such savings bank or banks in Ireland as to the appointment of a common auditor or auditors, and the auditor or auditors so appointed for all the said banks shall be deemed and taken, as soon as the signature, name, and address shall have been transmitted by each such bank to the said Commissioners, to be the auditor or auditors of each such bank.

Depositor's book in Ireland to con-

52. Every depositor in every savings bank in Ireland on his first deposit shall be furnished with a

deposit book, in which shall be printed at length a copy of the certified rules of the savings bank in which he shall make such deposit; and a duplicate copy of the certified rules, and of every alteration and amendment thereof, and a duplicate copy of every annual statement or account required by and furnished to the said Commissioners, signed by two trustees or managers of any such savings bank, shall be from time to time exhibited in the office of such savings bank, and shall be open to the inspection of every depositor or person intending to be such.

tain copy of rules.

Duplicate copy to be exhibited in the office.

53. The rules of every savings bank in Ireland shall specify a number of days, not less than two in every year ending on the twentieth of November, in which the book of each depositor shall be produced at the office of the said savings bank for the purpose of being inspected, examined, and verified with the books of the savings bank by the auditor or auditors.

Rules in Ireland to provide for production and inspection of books.

54. If it shall appear to the satisfaction of the said Commissioners that the clauses of this Act, or the orders, directions and regulations of the said Commissioners signified by the Comptroller General to the trustees of any savings bank in Ireland, have not been complied with by the trustees or managers of any savings bank in Ireland, it shall and may be lawful for the said Commissioners, if they shall so think fit, to close the account of the said savings bank and to discontinue the keeping any further account with the trustees thereof, and to direct that no further sum shall be received at the bank of Ireland from the trustees of such savings bank to the account of the Commissioners until such time as such Commissioners shall think proper: Provided always, that the said Commissioners may re-open and allow the growing interest of such accounts during

Commissioners may close accounts with savings banks in Ireland in certain cases;

and re-open them if they think fit.

the time of such discontinuance, and authorise the receipt of money at the bank of Ireland, whenever the said Commissioners shall think fit so to do, upon such trustees complying with the directions of such Commissioners; and the said Commissioners shall forthwith publish a notification of such account being closed, or of the same being re-opened, in the 'Dublin Gazette,' and also in some newspaper published in the county in which the said savings bank shall be established.

Trustees of savings banks shall make up annually accounts of their progress, &c., and transmit the same to the Commissioners for Reduction of the National Debt.

55. For the more effectual ascertaining from time to time the actual and progressive state of the several savings banks enrolled under the provision of this Act, the trustees and managers of every such savings bank shall annually cause a general statement of the funds of such savings bank invested in the Bank of England or the Bank of Ireland in the names of the Commissioners for the Reduction of the National Debt to be prepared up to the twentieth day of November in each year, showing the balance or principal sum due to all the depositors collectively in such savings bank, and a statement of the expenses incurred, and stating in whose hands such balance shall then be remaining; and every such annual statement shall be attested by two managers or two trustees, or by one manager and one trustee, of such savings bank, and every such annual statement shall be countersigned by the secretary or actuary of such savings bank, and all such annual statements shall be transmitted to the office of the said Commissioners for the Reduction of the National Debt in London or Dublin (as the case may be) within nine weeks after the twentieth day of November in each year; and in case the trustees of any such savings bank shall neglect or refuse to make out and transmit such

If trustees neglect to transmit such ac-

accounts as aforesaid, or in case any such trustees shall at any time neglect or refuse to obey any orders or directions given by the said Commissioners or through their officer, pursuant to the directions of this Act, it shall be lawful for the said Commissioners to close the account of the trustees of such savings bank, and to discontinue the keeping any further account with the trustees of such savings bank, and to direct that no further sum shall be received at the Bank of England or at the Bank of Ireland from the trustees of such savings bank to the account of the said Commissioners until such time as such Commissioners shall think fit: Provided always, that it may be lawful for the said Commissioners to re-open such account, and to allow the growing interest of such account during the time of such discontinuance, and to authorise the receipt of money at the Bank of England or Ireland whenever such Commissioners shall think fit to do so, upon such trustees complying with the directions of such Commissioners or their officer.

counts, or to obey any orders given pursuant to this Act, Commissioners may close their accounts, &c.

56. If the annual statements directed by this Act to be prepared and transmitted by the trustees of a savings bank shall not be prepared and transmitted to the Commissioners for the Reduction of the National Debt within the time limited by this Act, it shall be lawful for the said Commissioners, or for the Comptroller General or Assistant Comptroller acting under the said Commissioners, and they and he are and is hereby severally required, forthwith to publish in the 'London Gazette,' and also in any newspapers published in the county in which the savings bank is established, the name of every such savings bank so neglecting or making default in transmitting such annual statement as aforesaid, in such form and words for the informa-

If annual returns are not made, name of savings banks neglecting to be published in Gazette, &c.

tion of the depositors, and under such regulations, as the said Commissioners or the said Comptroller General or Assistant Comptroller shall from time to time think fit.

Statement of expenses may be required from trustees or managers.

57. It shall be lawful for the Commissioners for the Reduction of the National Debt, or the Comptroller General or Assistant Comptroller acting under the said Commissioners, if they or he shall think fit, to require from time to time of and from the trustees and managers of any savings bank a detailed statement of all the expenses whatever incurred by the said trustees and managers in the management or otherwise of the said savings bank.

When money is in the hands of a treasurer, &c. his certificate to accompany the statement.

58. Whenever it shall appear in any annual statement that any sum of money of or belonging to a savings bank is in the hands of any treasurer or other person, the said annual statement shall be accompanied with a certificate, signed by such treasurer or other person, that the sum of money therein mentioned is in his possession.

A duplicate of such account shall be affixed in the office of the savings bank.

59. The trustees and managers of every such savings bank shall cause a duplicate of every such annual statement, accompanied by a list of the trustees and managers of such institution for the time being, attested and countersigned as aforesaid, to be publicly affixed and exhibited in some conspicuous part of the office or place where the deposits of such savings bank are usually received, for the information of all parties making deposits therein; and every such duplicate shall from time to time remain so affixed and exhibited until the ensuing annual statement shall in like manner be affixed and exhibited as aforesaid; and every depositor shall be entitled to receive from the said savings bank a printed copy of such annual statement on payment of one penny.

60. From and after the passing of this Act the Commissioners for the Reduction of the National Debt shall, at the close of every year ending on the twentieth day of November, make to the Commissioners of Her Majesty's Treasury the following accounts; first, of the gross amount of all sums received and credited, including interest, and of all sums paid, including interest, from the sixth day of August in the year of our Lord one thousand eight hundred and seventeen up to such twentieth day of November, by the said Commissioners on account of the trustees of the several savings banks in Great Britain and Ireland, and also on account of any friendly societies in Great Britain respectively, and of the gross amount of all sums, stock, funds, annuities, and exchequer bills, and other securities standing in the names of such Commissioners on the twentieth day of November on account of any such savings banks or friendly societies respectively, and the sums paid for the purchase of such stocks, funds, exchequer bills, or other securities, and the gross amount of the interest or dividends received thereon by the said Commissioners, and the gross amount of the interest paid by such Commissioners up to such twentieth day of November on all receipts issued to the trustees of such savings banks or friendly societies in Great Britain and Ireland respectively, and also an account of all expenses incurred by the said Commissioners for salaries of clerks or other incidental charges during the preceding year; secondly, an account of the whole of the several transactions set forth in detail which shall have taken place during the course of the previous year in the investment of all monies coming into their hands for savings banks and friendly societies, and of the variations, if any, which have

What accounts shall be made by the National Debt Commissioners to the Commissioners of Her Majesty's Treasury, and laid before Parliament.

taken place during such year in the securities held by the said Commissioners for those institutions; and, thirdly, an account, showing the aggregate amount of the liabilities of the Government to the trustees of savings banks and friendly societies respectively, and the nature, amount, and value of the securities (taken at the price of the day) held by the said Commissioners to meet the same, stating the amount of surplus or deficiency (as the case may be) thereon; distinguishing in each of such accounts hereby required to be rendered as aforesaid the funds of savings banks from the funds of friendly societies; and copies of all such accounts shall be laid before both Houses of Parliament, not later than the fifteenth day of February, if Parliament shall be then sitting, and if not then sitting then within ten days after the next re-assembling of Parliament.

A distinct account to be shown in Parliamentary Returns of separate surplus funds of savings banks in hands of Commissioners.

61. In every such account so to be made to the Commissioners of Her Majesty's Treasury as herein-before is provided a distinct account shall be shown of the aggregate amount of the separate surplus funds of all savings banks made up to such twentieth day of November, and of the gross amount of all sums transferred to or paid out of such surplus fund in the course of the previous year, and of the balance of such account then remaining in the hands of the said Commissioners.

Savings banks shall compute interest on May 20 and November 20, half-yearly or yearly.

62. For the purpose of rendering the accounts of the several savings banks in Great Britain and Ireland uniform and correspondent with the accounts of the Commissioners for the Reduction of the National Debt the interest payable to the depositors in such savings banks in Great Britain and Ireland shall, from and after the twentieth day of November one thousand eight hundred and sixty-three, be

computed half-yearly to the twentieth day of May and the twentieth day of November, or yearly to the twentieth day of November in each year, as the case may be, and to no other periods.

Commissioners for the Reduction of the National Debt may keep a balance in the Bank of Ireland for drafts which may be drawn on account of savings banks there.

63. It shall be lawful for the said Commissioners for the Reduction of the National Debt, if they shall so think fit, and they are hereby authorised and empowered to pay into the Bank of England from time to time any sum or sums of money to be placed to their account with the Governor and Company of the Bank of Ireland on account of the fund for the banks for savings, under such regulations as shall be agreed upon from time to time between the said Commissioners and the said Governor and Company of the Bank of Ireland, and all sums of money so placed to the said Commissioners' credit as aforesaid shall be carried to the account of the said Commissioners by the cashiers of the said Governor and Company of the Bank of Ireland, standing in the books of the said bank under the title of 'The Funds for the Banks for Savings,' and shall be subject and shall be applied to the several purposes herein-before mentioned, as if every such sum and sums of money had been originally paid into the Bank of Ireland to the said account under the provisions of this Act.

Receipts, &c. shall be in the form approved by Commissioners.

64. All receipts, orders, certificates, endorsements, accounts, returns, or instruments, or other matters or things whatsoever which shall be required for carrying into execution this Act, shall be made in such form and manner, and containing such particulars, and under such regulations as shall from time to time be directed or required or approved of by the said Commissioners or their officer or officers.

Indemnity to Commissioners and

65. This Act shall be a full and sufficient indemnity and discharge to the Commissioners for

Banks of England and Ireland.

the Reduction of the National Debt, and to the Governor and Company of the Bank of England and the Bank of Ireland respectively and their officers, for all things to be done or required or permitted to be done pursuant to this Act.

Power to Commissioners to appoint and employ barrister, clerks, &c.

66. It shall be lawful for the said Commissioners for the Reduction of the National Debt and they are hereby authorised and empowered to appoint a barrister-at-law, and employ such and so many of the clerks and other officers as shall be necessary for carrying into execution the purposes of this Act, and it shall be lawful for the Lord High Treasurer or the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland for the time being, and he or they is or are hereby authorised and empowered, to settle and appoint such allowances as shall be proper for the services, pains, and labour of such clerks or other persons to be appointed and employed by the said Commissioners in manner and for the purposes aforesaid, and out of the fund upon which the establishment of the said Commissioners is chargeable by any Act now in force to pay and discharge all such allowances and all other incidental charges which shall necessarily attend the execution of this Act in such manner as to them shall seem just and reasonable.[1]

Power to Treasury to pay them and discharge incidental expenses.

Act to extend to all savings banks in Great Britain and Ireland.

67. This Act shall, except as herein-after is excepted, extend to all savings banks established or hereafter to be established in England, Scotland, or Ireland, and Berwick-upon-Tweed, and the islands of Guernsey, Jersey, and the Isle of Man.

Act not to affect post office savings banks, or powers of Commis-

68. This Act shall not be held to repeal any of the now existing statutes relating to savings banks in so far as relates to Post Office savings banks established or to be established under the twenty-

[1] This section is virtually repealed by the Savings Bank Barrister Act 1876; see *post*.

fourth Victoria, chapter fourteen, nor to repeal any of the powers and authorities now vested by those Acts in the Commissioners for the Reduction of the National Debt in regard to the control, management, investment, conversion, and regulation of the funds remitted by the trustees of savings banks or by the trustees of friendly societies to the said Commissioners.

sioners for Reduction of National Debt.

SCHEDULES.

SCHEDULE A.

Acts and Parts of Acts Repealed.

Date of Act.	Title.	Extent of Repeal.
9 Geo. IV. c. 92.	An Act to consolidate and amend the Laws relating to Savings Banks.	The whole
3 Will. IV. c. 14.	An Act to enable Depositors in Savings Banks and others to purchase Government Annuities through the Medium of Savings Banks, and to amend an Act of the ninth Year of his late Majesty to consolidate and amend the Laws relating to Savings Banks.	Sections 21, 22, 25, 28, 29, 30, 31, 32, 33, 34, and 35.
5 & 6 Will. IV. c. 57.	An Act to extend to Scotland certain Provisions of an Act of the ninth Year of his late Majesty to consolidate and amend the Laws relating to Savings Banks, and to consolidate and amend the Laws relating to Savings Banks in Scotland.	The whole.
7 & 8 Vict. c. 83.	An Act to amend the Laws relating to Savings Banks, and to the Purchase of Government Annuities through the Medium of Savings Banks.	The whole.

SCHEDULE A.—continued.

Date of Act	Title	Extent of Repeal
11 & 12 Vict. c. 133.	An Act to amend the Laws relating to Savings Banks in Ireland.	The whole.
17 & 18 Vict. c. 50.	An Act to continue an Act of the twelfth Year of her present Majesty for amending the Laws relating to Savings Banks in Ireland, and to authorise Friendly Societies to invest the whole of their funds in Savings Banks.	Section 2.
22 & 23 Vict. c. 53.	An Act to enable Charitable and Provident Societies and Penny Savings Banks to invest all their Proceeds in Savings Banks.	The whole.
23 & 24 Vict. c. 137.	An Act to make further Provision with respect to Monies received from Savings Banks and Friendly Societies.	The whole.

SCHEDULE B.

FORM OF CERTIFICATE FOR TRANSFER TO ANOTHER SAVINGS BANK.

To be issued to any Depositor desiring to transfer his [*or* her] Deposits from one Savings Bank to another.

Savings Bank at , in the county of .

Whereas of a depositor in the above-named savings bank, is desirous of closing his [*or* her] account with the said bank

for the purpose of transferring his [*or* her] deposits to the savings bank at in the county of , and to enable him [*or* her] so to do the said depositor has applied for a certificate of the whole amount due to him [*or* her] pursuant to the Act [*referring to this Act*]; we hereby certify that the sum due to the said depositor for money deposited by him [*or* her] in this savings bank, inclusive of all interest due to him [*or* her] to this date, amounts to the sum of [*state the amount in words*], of which the sum of [*state the amount, if any, in words*] has been deposited since the twentieth of November last; and we further certify that his [*or* her] account with this savings bank has been closed by the issue of this certificate.

Witness our hands this day of 18 .

_____ } Two of the trustees or managers [appointed, for this object, by the trustees] of the above-named savings bank.
_____

Examined actuary or secretary of the above-named savings bank.

THE POST OFFICE SAVINGS BANK ACT.

AN ACT TO GRANT ADDITIONAL FACILITIES FOR DEPOSITING SMALL SAVINGS AT INTEREST, WITH THE SECURITY OF THE GOVERNMENT FOR DUE REPAYMENT THEREOF. 24 VICT. C. 14.

WHEREAS it is expedient to enlarge the facilities now available for the deposit of small savings, and to make the General Post Office available for that purpose, and to give the direct security of the State to every such depositor for repayment of all monies so deposited by him, together with the interest due thereon: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same:

Postmaster General may direct officers in Post Office to receive deposits.

1. It shall be lawful for the Postmaster General, with the consent of the Commissioners of her Majesty's Treasury, to authorise and direct such of his officers as he shall think fit to receive deposits for remittance to the principal office, and to repay the same, under such regulations as he, with the concurrence of the Commissioners of her Majesty's Treasury, may prescribe in that respect.

Legal title of depositor to repayment.

2. Every deposit received by any officer of the Postmaster General appointed for that purpose shall be entered by him at the time in the depositor's book, and the entry shall be attested by him and by

the dated stamp of his office, and the amount of such deposit shall upon the day of such receipt be reported by such officer to the Postmaster General, and the acknowledgment of the Postmaster General, signified by the officer whom he shall appoint for the purpose, shall be forthwith transmitted to the depositor, and the said acknowledgment shall be conclusive evidence of his claim to the repayment thereof, with the interest thereon, upon demand made by him on the Postmaster General; and, in order to allow a reasonable time for the receipt of the said acknowledgment, the entry by the proper officer in the depositor's book shall also be conclusive evidence of title for ten days from the lodgment of the deposit; and if the said acknowledgment shall not have been received by the depositor through the post within ten days, and he shall, before or upon the expiry thereof, demand the said acknowledgment from the Postmaster General, then the entry in his book shall be conclusive evidence of title during another term of ten days, and *toties quoties*: Provided always, that such deposits shall not be of less amount than one shilling, nor of any sum not a multiple thereof.

Depositors entitled to repayments not later than ten days after demand made.

3. On demand of the depositor or party legally authorised to claim on account of a depositor, made in such form as shall be prescribed in that behalf, for repayment of any deposit, or any part thereof, the authority of the Postmaster General for such repayment shall be transmitted to the depositor forthwith, and the depositor shall be absolutely entitled to repayment of any sum or sums that may be due to him within ten days at farthest after his demand shall be made at any post office where deposits are received or paid.

4. The officers of the Postmaster General engaged

Names of depositors, &c. not to be disclosed.

in the receipt or payment of deposits shall not disclose the name of any depositor nor the amount deposited or withdrawn, except to the Postmaster General, or to such of his officers as may be appointed to assist in carrying this Act into operation.

Money to be paid to Commissioners for the reduction of the National Debt, and repaid to depositors through Post Office.

5. All monies so deposited with the Postmaster General shall forthwith be paid over to the Commissioners for the Reduction of the National Debt; and all sums withdrawn by depositors, or by parties legally authorised to claim on account of depositors, shall be repaid to them out of the said monies, through the office of her Majesty's Postmaster General.

Additional security to depositor.

6. If at any time the fund to be created under the authority of this Act by the investment of the deposits shall be insufficient to meet the lawful claims of all depositors, it shall be lawful for the Commissioners of her Majesty's Treasury, upon being duly informed thereof by the Commissioners for the reduction of the National Debt, to issue the amount of such deficiency out of the Consolidated Fund of the United Kingdom, or out of the growing produce thereof; and the said Commissioners of her Majesty's Treasury shall certify such deficiency to Parliament.

Rate of interest payable to depositors.

7. The interest payable to the parties making such deposits shall be at the rate of two pounds ten shillings *per centum per annum*, but such interest shall not be calculated on any amount less than one pound or some multiple thereof, and not commence until the first day of the calendar month next following the day of deposit, and shall cease on the first day of the calendar month in which such deposit is withdrawn.

Interest how calculated.

8. Interest on deposits shall be calculated to the

thirty-first day of December in every year, and shall be added to and become part of the principal money.

Investment of funds received under this Act.

9. The monies remitted to the Commissioners for the Reduction of the National Debt under the authority of this Act shall be invested in some or in all of the securities in which the funds of savings banks established under the existing laws may be invested; and a separate and distinct account shall be kept by the said Commissioners of all receipts, investments, sales, and repayments; and a balance sheet of such account from the first of January to the thirty-first of December in every year shall be laid before both Houses of Parliament not later than the thirty-first of March in every year.

Depositors desiring to transfer their deposits.

10. If any depositor making deposit under this Act shall desire to transfer the amount of such deposit to a savings bank established under the Acts relating to savings banks, he shall, upon application to the chief office of the Postmaster General, be furnished with a certificate stating the whole amount which may be due to him, with interest, and thereupon his account under this Act shall be closed; and, upon delivery of such certificate to the trustees or managers of the savings bank to which it is proposed by the depositor to transfer such deposit, they shall, if they think fit, open an account for the amount stated in such certificate for such depositor, who shall thereupon be subject to the rules of such savings bank; and the amount so transferred shall, upon such certificate being forwarded to the Commissioners for the Reduction of the National Debt, be written off in the books of the said Commissioners from the amount of monies received under the authority of

this Act, and shall be carried to the account of the savings bank to which such transfer shall have been made; and, in like manner, if any depositor in a savings bank established under the Savings Bank Acts shall desire to transfer the amount due to him, with interest, from such savings bank to the Postmaster General, for deposit under the provisions of this Act, the trustees or managers of such savings bank shall, upon his request, furnish such depositor with a certificate, in a form to be approved by the Commissioners for the Reduction of the National Debt, signed by two trustees of such savings bank, and thereupon his account with such savings bank shall be closed, which certificate the depositor may deliver to any officer of the Postmaster General authorised to receive deposits under this Act, and such certificate shall for the amount therein set forth be considered to be a deposit made under the authority of this Act, and being forwarded to the said Commissioners, the said amount shall then be transferred in the books of the said Commissioners from the account of the said savings bank to the credit of the account of monies deposited under the authority of this Act.[1] Provided always, that nothing contained in this Act respecting savings banks shall render it necessary to have the rules and regulations of any savings bank again certified if the same have been before certified according to law.[2]

Not necessary to have rules, &c. of savings banks again certified.

[1] During the illness of a female depositor in the Chesterfield Savings Bank, a relative who nursed her obtained possession of her deposit book and gave it to her husband, who obtained irregularly from the savings bank, which was then closing, a transfer of the account to the Post Office Savings Bank in the name of his infant son. On proof of the facts, payment was awarded to the administrator of the depositor.—*Re Sharratt*, December 2, 1876.

[2] Cf. Regulation 14 of Post Office Savings Banks, which

11. The Postmaster General, with the consent of the Commissioners of her Majesty's Treasury, may make, and from time to time, as he shall see occasion, alter regulations for superintending, inspecting, and regulating the mode of keeping and examining the accounts of depositors, and with respect to the making of deposits and to the withdrawal of deposits and interest, and all other matters incidental to the carrying this Act into execution, in his department, and all regulations so made shall be binding on the parties interested in the subject matter thereof to the same extent as if such regulations formed part of this Act; and copies of all regulations issued under the authority of this Act shall be laid before both Houses of Parliament within fourteen days from the date thereof, if Parliament shall be then sitting, and if not then within fourteen days from the next re-assembling of Parliament.[1]

Postmaster General, with consent of Treasury, to make regulations.

Copies of regulations to be laid before Parliament.

12. An annual account of all deposits received and paid under the authority of this Act, and of the expenses incurred during the year ended the thirty-first of December, together with a statement of the total amount due at the close of the year to all depositors, shall be laid by the Postmaster General before both Houses of Parliament not later than the thirty-first of March in every year.

Accounts to be laid before Parliament.

13. The annual accounts of the Postmaster General, and of the Commissioners for the Reduction of the National Debt, to the thirty-first of December

Accounts to be examined by Commissioners of Audit.

is based on this section. Cf. also s. 40 of the 26 & 27 Vict. c. 87 as to transfers between Trustee Savings Banks. See also as to transfers of the accounts of minors and transfer certificates, the 26 Vict. c. 14, *post*.

[1] The power to make regulations, it will be observed, only appears to apply to matters not provided for by the previous Acts.

in each year, in respect to all monies deposited or invested under the authority of this Act, shall annually, prior to the thirty-first of March in each year, be submitted for examination and audit to the Commissioners for auditing Public Accounts.

Provisions of Savings Bank Acts applicable to this Act.

14. All the provisions of the Acts now in force relating to savings banks as to matters for which no other provision is made by this Act shall be deemed applicable to this Act, so far as the same are not repugnant thereto.

Expenses of Act.

15. All expenses incurred in the execution of this Act shall be paid out of the monies received under the authority of this Act.

[The following appear to be the provisions applicable to Post Office Savings Banks of the Acts in force at the passing of the above statute, and which by s. 14 are virtually embodied therewith, although repealed for other purposes by the 26 & 27 Vict. c. 87.]

I.—*Sections affecting depositors in Post Office Savings Banks of 9 Geo. IV. c. 92.*

An Act to consolidate and amend the Laws relating to Savings Banks.

Rules of institution to be entered in a book and be open to the inspection of depositors.

3. And be it further enacted, that no such institution as aforesaid shall have the benefit of this Act, unless the rules and regulations for the management thereof shall be entered in a book or books to be kept by an officer of such institution to be appointed for that purpose, and which book or books shall be open at all seasonable times for the inspection of the persons making deposits in the

funds of such institution, and unless such rules and regulations shall be fairly transcribed on parchment. But nevertheless, nothing herein contained shall extend to prevent any alteration in or amendment of any such rules or regulations so entered and deposited and filed as aforesaid, or repealing or annulling the same or any of them, in the whole or in part, or making any new rules or regulations for the management of such institution, in such manner as by the rules and regulations of such institution shall from time to time be provided, but such new rules or regulations, or such alterations in or amendments of former rules or regulations, or any order annulling or repealing any former rule or regulation, in the whole or in part, shall not be in force until the same respectively shall be entered in such book or books as aforesaid.[1]

Not to prevent alterations.

Alterations to be entered in like manner.

4. And be it further enacted, that before a transcript of the rules and regulations, or alteration in or amendments of former rules or regulations, for the management of any institution requiring the benefit of this Act, shall be submitted by the trustees or managers for the time being of each respective institution, and at the expense of the said institution, to a barrister at law to be appointed by the Commissioners for the Reduction of the National Debt, for the purpose of ascertaining whether the same are in conformity to law, and with the provisions of this Act; and that the said barrister shall give a certificate thereof, or point out in what part or parts they are repugnant thereto; and the fee to be paid to such barrister for perusing the rules, regulations, alterations, or amendments of

Rules and regulations, to be submitted to a barrister.

[1] It appears doubtful how far this enactment applies to Post Office Savings Banks.

each respective institution, and giving such certificate as aforesaid, shall not at any one time exceed the sum of one guinea; and such transcript shall be signed by two trustees.[1]

Rules, when entered and deposited, to be binding on members and depositors.

5. And be it further enacted, that all rules and regulations from time to time made and in force for the management of such institution as aforesaid, and duly entered in such book or books as aforesaid, shall be binding on the several members and officers of such institution, and the several depositors therein and their representatives, all of whom shall be deemed and taken to have full notice thereof by such entry and deposit as aforesaid; and the entry of such rules and regulations in such book or books as aforesaid, shall be received as evidence of such rules and regulations respectively in all cases; and no certiorari shall be brought or allowed to remove any such rules or regulations into any of his Majesty's Courts of Record.

Copy of transcript to be received as evidence.

Savings of minors may be invested.

25. And be it further enacted, that in case the trustees or managers of any such institution shall receive or shall have received any deposit of money from or for the benefit of any person under the age of twenty-one years, it shall be lawful for the trustees or managers of such institution to pay such person his or her share and interest in the funds of such institution; and the receipt of such person shall be a sufficient discharge, notwithstanding his or her incapacity or disability in law to act for him or herself.

[Sections 27 and 29 apply to the deposits of charitable or provident institutions or societies, and

[1] In pursuance of this section it is understood that the Post Office regulations were submitted for certification to the then barrister, Mr. Tidd Pratt.

friendly societies, and fix limits for such deposits. They are superseded by the 22 & 23 Vict. c. 53, which see *post.*]

Receipt of treasurer, &c. of friendly society or charitable institution deemed sufficient discharge.

29. And be it further enacted, that the receipt or discharge of the treasurer, trustee, or other officer of such friendly society, charitable or provident institution or society, for the time being, for any money paid according to the requisition of such treasurer, trustee, or other officer apparently authorised to require such payment, shall be a sufficient discharge for the same; and the institution in which such deposit shall be made shall not be responsible for any misapplication of any such money, donation, or bequest, by the person or persons to whom the same shall be so paid, or for any want of authority of the person or persons requiring or receiving such payment.[1]

Members of friendly or charitable societies not liable to disability in those societies by subscribing to any institution under this Act.

30. And be it further enacted, that no person who is or shall be a member of any friendly society established or to be established under and by virtue of any Act or Acts relating to friendly societies, or a member of any of the charitable institutions herein-before mentioned, shall, by reason of such person being or becoming a depositor in any institution taking the benefit of this Act, be considered as subject or liable to any penalty, forfeiture, or disability, declared or expressed, or intended so to be, by or in the rules, orders, or regulations of

[1] Where the monies of a society were deposited in the names of two of the trustees in the Post Office Savings Bank, and on the death of one of them, the society was anxious to have the deposits paid to newly appointed trustees, but the survivor refused to sign the required notice of withdrawal on a purely personal ground, the register awarded that the monies might be paid without his signature.—*Re Three Crowns Court of the Ancient Order of Foresters*, December 4, 1876.

Cf. section 34 of 26 & 27 Vict. c. 87 and notes.

such friendly society; any rules, orders, or regulations of such friendly society made, or hereafter to be made, to the contrary notwithstanding: Provided also, that no depositor shall be subject or liable to any penalty or forfeiture on account of his belonging to or being interested in the funds of any friendly society or charitable society deposited in any other savings bank.[1]

Proviso for depositors belonging to societies.

No sum to be subscribed without the name and profession, &c. of the depositor.

32. And be it further enacted, that no sum shall be paid or subscribed into any savings bank by any person or persons, by ticket or number or otherwise, without disclosing his or her name, together with his or her profession, business, occupation, calling, and residence, to the trustees or managers of such savings bank; and the trustees or managers of every savings bank are hereby required to cause the name of such depositor, together with his or her profession, business, occupation, calling, and residence, to be entered in the books of the Institution.[2]

Persons allowed to subscribe as trustees on behalf of others.

33. And be it further enacted, that it shall and may be lawful for the trustees or managers of any savings bank to receive from any person or persons acting as trustee or trustees on behalf of any depositor or depositors, whether such person or persons is or are himself or themselves a depositor or depositors or not, any sum or sums not exceeding the annual amount herein-after mentioned; provided that such trustee or trustees shall make such declaration on behalf of such depositor or depositors, and subject to the like conditions, as by this Act is required in the case of any person or persons making any deposit on his or her own account; and all deposits made by any such trustee or trustees shall be

[1] Cf. section 35 of 26 & 27 Vict. c. 87.

[2] Cf. section 36 of 26 & 27 Vict. c. 87 and notes thereon.

inserted in the books of such savings bank in the joint names of such trustee or trustees and of the person or persons on whose account such sum shall be so deposited; and the receipt and receipts of such trustee or trustees, or the survivor of them, or the executors or administrators of any sole trustee or surviving trustee, with or without the receipt of the person or persons on whose account such sum may have been deposited, shall be a good and valid discharge to the trustees or managers of the Institution.[1]

Subscribers to one savings bank shall not subscribe to any other.

34. And be it further enacted, that it shall not be lawful for any person or persons who shall have made any deposit in, or any subscription to, or who shall be entitled to any benefit from, the funds of any savings bank, to make any deposit in or to subscribe any sum into the funds of any other savings bank, or to open any new account in the said savings bank; and that every person desirous of making any deposit in or any subscription to any savings bank, shall at the time of making the first deposit in any savings bank, and at such other time or times as such depositor shall be required so to do by the trustees or managers of any such savings bank, sign, either by themselves, or, in case of infants under the age of seven years, by some person to be approved of by the trustees or managers, or by such other person as they shall appoint, a declaration in such form as shall be directed or approved of by the Commissioners or other proper officer, that the person or persons on whose behalf

Declaration to be made at the time of subscription.

[1] Cf. section 37 of the 26 & 27 Vict. c. 87 and notes thereon, section 7 of 7 & 8 Vict. 83, and notes on the 7th Post Office Regulation. The latter part of this section is now only applicable to deposits in trust made before November 20, 1844, in a Trustee Savings Bank and transferred to a Post Office Savings Bank.

any such first deposit or subscription shall be required to be made is not or are not entitled to any deposit, or any such subsequent deposit or subscription in or any benefit from the funds of any savings bank, other than that into which such deposit or subscription shall be made, or any other funds in the said savings bank; and in case any such declaration shall not be true, or if any person shall at any time have or hold or be possessed of any deposit or funds in more than one savings bank within the United Kingdom, every such person shall forfeit and lose all right and title to any deposit in or to any funds of any and every such savings bank;[1] and

Penalty on false declaration, forfeiture of deposit to the Sinking Fund.

[1] Cf. the third section of 7 & 8 Vict. c. 83, and section 38 of 26 & 27 Vict. c. 87 and notes thereon; also Cf. Post Office Regulation 3. Under a Treasury minute the opinion of the barrister that a fraudulent intention existed was made a condition precedent of the forfeiture of deposits, as under the 26 & 27 Vict. c. 83.

Where a depositor had made two false declarations, first in respect of his name, and secondly in respect of his having made no other deposit, the registrar awarded that the usual penalty could not be remitted, the second deposit being made with fraudulent intent. *Re Fox*, June 2, 1876.

Where, however, double deposits have been made clearly through mere ignorance, without any view of transgressing the law, forfeiture will not be enforced.

Thus, in a case where monies, the properties of a young Frenchman, were deposited by an Englishman in trust for him in three Post Office Savings Banks, and the depositor had signed declarations, of which two were necessarily false, as to his having no other deposits, the registrar awarded that the monies might be paid to the lawful owner without the signature of the trustee, since it was proved on examination of the parties on oath that the Frenchman was ignorant of the law as to double deposits, and of the falsity of the above-mentioned declarations. *Re De Bray*, March 7, 1876.

So too in a case where it was proved that the daughter of a postmaster had opened six different accounts with her father's money under fictitious names, and a very strong declaration as to the father's freedom from any complicity in the matter had been received by the registrar, he awarded that the monies might be paid to the latter. *Re Simms*, August 3, 1876.

the managers and trustees of such savings bank shall and they are hereby required in such case to close the account of such depositor, and to cause the sum or sums so forfeited to be forthwith paid into the Bank of England or Bank of Ireland, as the case may be, to the account of the Commissioners standing in the books of the Governor and Company of the said banks respectively, under the title of 'The Account of the Commissioners for applying certain Sums of Money annually to the Reduction of the National Debt;' and the cashier or cashiers of the said Governor and Company is and are hereby required to receive all such sums, and to place the same to the said account, to be applied in like manner as all other money placed to the said account; and every such declaration so made shall be filed and kept and preserved by the trustees of every such savings bank; and a printed notice of such regulation and prohibition shall be affixed in the office or place appointed for the receiving of deposits to any savings bank, in such form as the said Commissioners or their proper officer shall from time to time direct, or require or approve.

Declarations shall be filed.

35. And be it further enacted, that from and after the twentieth day of November one thousand eight hundred and twenty-eight, it shall not be lawful for the trustees of any savings bank to receive from any one present or future depositor any

Trustees not to receive from any one depositor more than 30*l.* in any one year, nor more than 150*l.* in

Lastly, where a deposit account was opened in a Post Office Savings Bank for a minor under seven, who afterwards became an inmate of the National Orphan Home on Ham Common, Surrey; when, in accordance with the regulations of the institution, the matron took charge of her pocket money and opened a second deposit account for her in another Post Office Savings Bank, the barrister held that the deposits were clearly not made with a fraudulent intent (the minor herself having had nothing to do with either of them).

the whole. When deposit and interest amount to 200*l.* interest to cease.

sum or sums exceeding thirty pounds in the whole, exclusive of compound interest, in any one year, ending on the twentieth day of November, nor to receive from any depositor any sum or sums of money whatever, which shall make the sum to which such depositor shall be entitled exceed the sum of one hundred and fifty pounds in the whole: Provided always, that whenever the sum or sums standing in the name of any depositor shall amount in the whole to two hundred pounds, principal and interest included, that thenceforth no interest shall be payable on any such deposit so long as it shall continue to amount to the said sum of two hundred pounds.

Not to affect deposits of 200*l.* at the passing of this Act.

36. And be it further enacted, that nothing in this Act contained shall prevent or be construed to prevent the trustees of any savings bank from paying interest to any depositor whose deposit shall, on the day of the passing of this Act, amount to or exceed the sum of two hundred pounds.

Trustees not to receive from persons whose deposit amounts to 150*l.*

37. Provided always, and be it further enacted, that the trustees shall not receive from any such depositor any fresh or additional deposit, so long as the sum or sums to which such depositor shall be entitled shall amount to or exceed the sum of one hundred and fifty pounds.

[Section 38 as to depositors withdrawing their deposits and again subscribing, is repealed by the 3 William IV. c. 14, *post.*]

Deposits may be withdrawn from one savings bank to be placed in another.

39. Provided always, and be it further enacted, that at any time after the passing of this Act it shall and may be lawful for any depositor in any savings bank to withdraw from such savings bank the whole of his or her deposits and interest thereon at any one time (but not in parts or shares), for the purpose of investing the same in any

other savings bank; and in such a case it shall be lawful for the trustees or managers of any such savings bank from which such deposit shall be intended to be withdrawn, or any one or more of them, and they are hereby required, to grant to any such depositor a certificate, under the hands of such one or more trustee or trustees, manager or managers respectively, attested by the secretary or actuary of such savings bank, and such certificate shall state the whole amount of the deposit and interest due to such depositor in such savings bank, and shall be in such form as shall be directed or approved of by the Commissioners for the Reduction of the National Debt, or their officer; and upon the production of such certificate, signed as herein-before directed, to the trustees or managers of the savings bank into which such deposit and interest is intended to be removed, the person applying shall, and he or she is hereby required to indorse his or her name on the back of such certificate, in the presence of one or more of the trustees or managers of such savings bank, and such indorsement shall be attested by one of such trustees or managers; and if such trustee or trustees, or manager or managers, shall be satisfied that such certificate is authentic, and that no abuse is intended thereby, it shall and may be lawful for the trustees or managers of such savings bank to receive the sum specified in such certificate, and to place the same to the account of the person therein described in the books of such savings bank, anything in this Act to the contrary thereof notwithstanding: provided always, that previous to such investment a like declaration shall be made by the person applying to make such deposit as is required in other cases of making deposits in savings banks according to the provisions contained in this

Act, and such person shall be considered in all respects as an original subscriber to such savings bank, and shall be liable to all such rules, regulations, and restrictions as an original subscriber to such bank.[1]

Depositor dying leaving any sum exceeding 50*l.* the same not to be paid until after administration.

40. And be it further enacted, that in case any depositor in the funds of any institution taking the benefit of this Act shall die, leaving any sum or sums of money in the said funds, or any dividends or interest due thereon, belonging to him or her at the time of his or her death, exceeding in the whole the sum of fifty pounds, the same shall not be paid to any person or persons as representative or representatives of such depositor, but upon the probate of the will of the deceased depositor, or letters of administration of his or her estate or effects: provided always, that where the whole estate or effects of any such deceased depositor, for or in respect of which probate or letters of administration respectively shall be granted, shall not exceed the value of fifty pounds, no stamp duty shall be chargeable thereon, nor upon any legacy or residue or part thereof bequeathed, nor upon any share or part of the estate or effects to be paid or distributed by or under such probate or letters of administration: Provided also, that in every such case the person or persons claiming such probate or letters of administration free from stamp duty under this Act shall exhibit to the court or person having authority to grant the probate or letters of administration, in such case, a certificate of the amount and value of the share and interest which the deceased depositor had in the funds of the sai l institution, which certificate shall be granted in such form and manner as shall have been settled by the rules or regulations

No duty to be paid on probate where the estate is under 50*l.*

Certificate of amount and value of depositor's interest to be produced on claiming probate, &c.

[1] Cf. section 40 of 26 & 27 Vict. c. 87.

of the institutions respectively, and shall be signed or testified by such person or persons as shall be directed therein; and every such certificate shall be taken and received, by the court or person having authority to grant such probate or letters of administration, as evidence of the amount and value of the shares and interests of the deceased depositor in the funds of the said institution.[1]

Administration bonds, &c. for effects under 50*l.* exempted from stamp duty.

41. And be it further enacted, that in all cases where the whole estate and effects of any deceased depositor, for or in respect of which letters of administration shall be granted, shall not exceed the value of fifty pounds sterling, no stamp duty shall be chargeable upon the bond required to be given by the administrator for the due administration of the effects of such deceased depositor, nor upon any affidavit or document leading to or connected with such administration, but that every such bond and affidavit shall be exempted from stamp duty in like manner and under the like regulations as are provided in and by this Act with respect to such letters of administration.[2]

Payment to persons appearing to be next of kin declared valid.

42. And be it further enacted, that whenever any trustees or managers of any savings bank, at any time after the decease of any depositor, have paid and divided any sum of money not exceeding fifty pounds to or amongst any person or persons who shall, at the time of such payment, appear to such trustees or managers to be entitled to the effects of any deceased intestate depositor, according to the Statute of Distributions, or according to the rules and regulations of any such savings bank, the payment of any such sum or sums of money shall

[1] Cf. section 41 of 26 & 27 Vict. c. 87, and notes thereon.

[2] Cf. 26 & 27 Vict. c. 87, sections 42 & 43, and notes thereon.

be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased intestate depositor, or as the lawful representative or representatives of such depositor, against the funds of such savings bank, or against the treasurer or trustees or managers thereof; but nevertheless such next of kin or representatives shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same.[1]

Remedy for next of kin.

Payments under probates of wills, &c. appearing to be in force shall be valid.

43. And be it further enacted, that payment of any money by any such institution as aforesaid, to any person or persons having any letters of administration or probate of any such will or testamentary disposition granted by any ecclesiastical court, and appearing to be in force, shall be valid and effectual with respect to any demand of any other person or persons, as the lawful representative or representatives of such depositor, against the funds of such institution, or against the treasurer, trustees, or managers thereof; but nevertheless such lawful representative or representatives shall have remedy for such money or securities for money so paid or transferred as aforesaid, against the person or persons who shall have received the same.[2]

Powers of attorney, &c. given by trustees or depositors, not liable to stamp duty.

44. And be it further enacted, that no power, warrant, or letter of attorney, granted or to be granted by any person or persons, or trustee or trustees of any institution established under this Act, nor any power, warrant, or letter of attorney given by any depositor or depositors in the funds of such institution to any other person or persons, authorising him, her, or them to make any deposit or deposits of any sum or sums of money in the

[1] Cf. 26 & 27 Vict. c. 87 s. 44.
[2] Cf. 26 & 27 Vict. c. 87, s. 45.

said funds on behalf of the said depositor or depositors, or to sign any document or instrument required by the rules or regulations of such institution to be signed on making such deposits, or to receive back any sum or sums of money deposited in the said funds, or the dividends or interest arising therefrom, nor any receipt nor any entry in any book of receipt for money deposited in the funds of any such institution, nor for any money received by any depositor, his or her executors or administrators, assigns or attornies, from the funds of such institution, nor any draft or order, nor any appointment of any agent or agents, nor any certificate or other instrument for the revocation of any such appointment, nor any other instrument or document whatever required or authorised to be given, issued, signed, made, or produced in pursuance of this Act, shall be subject or liable to or charged with any stamp duty or duties whatsoever.[1]

II.—*Sections affecting depositors in Post Office Savings Banks of* 3 & 4 *Will. IV. c.* 14.

AN ACT TO ENABLE DEPOSITORS IN SAVINGS BANKS, AND OTHERS, TO PURCHASE GOVERNMENT ANNUITIES THROUGH THE MEDIUM OF SAVINGS BANKS; AND TO AMEND AN ACT OF THE NINTH YEAR OF HIS LATE MAJESTY, TO CONSOLIDATE AND AMEND THE LAWS RELATING TO SAVINGS BANKS.

So much of 9 G. 4. c. 92, as relates to withdrawing deposits and re-depositing repealed.

29. And be it further enacted, that from and after the twentieth day of November in the year of our Lord one thousand eight hundred and thirty-three so much of the said Act, made and passed in the ninth year of the reign of King

[1] Cf. 26 & 27 Vict. c. 89 s. 50.

George the Fourth, as relates to depositors withdrawing their deposits, and re-depositing the same, provided the sum invested does not in any one year exceed thirty pounds additional principal money, shall be and the same is hereby repealed; and that no money, whether such money shall have been previously withdrawn from such savings banks or not, shall at any time be received by the trustees or managers from any depositor which shall in any one year ending on the twentieth day of November exceed the sum of thirty pounds.

No money exceeding 30*l.* to be deposited in any one year.

9 G. 4, c. 92, as amended by this Act, extended to Guernsey, &c.

34. And be it further enacted, that the provisions of the said Act made and passed in the ninth year of his late Majesty King George the fourth, and of this Act, shall extend to all savings banks established or hereafter to be established in the islands of Guernsey and Jersey and Isle of Man.

Limits of the Act.

35. And be it further enacted, that this Act shall extend to Great Britain and Ireland and Berwick-upon-Tweed, and the islands of Guernsey and Jersey and Isle of Man.

III.—*Sections affecting Depositors in Post Office Savings Banks of* 5 *&* 6 *Will. IV. c.* 57.

AN ACT TO EXTEND TO SCOTLAND CERTAIN PROVISIONS OF AN ACT OF THE NINTH YEAR OF HIS LATE MAJESTY, TO CONSOLIDATE AND AMEND THE LAWS RELATING TO SAVINGS BANKS; AND TO CONSOLIDATE AND AMEND THE LAWS RELATING TO SAVINGS BANKS IN SCOTLAND.

WHEREAS it is expedient to repeal the law relative to savings banks in Scotland, and to make other provisions respecting savings banks in Scotland; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the

lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all the clauses and provisions of a certain Act made and passed in the ninth year of the reign of his late Majesty, intituled 'An Act to consolidate and amend the Laws relating to Savings Banks,' and also of a certain other Act made and passed in the third year of the reign of his present Majesty, intituled 'An Act to enable Depositors in Savings Banks and others to purchase Government Annuities through the Medium of Savings Banks;' and to amend an Act of the ninth year of his late Majesty, to consolidate and amend the Laws relating to savings banks, shall from and after the passing of this Act extend to Scotland.

Provisions of 9 G. 4, c. 92, & 3 W. 4, c. 14, extended to Scotland.

4. And be it enacted, that where the said recited Act or Acts provide for payments made to any of the relations of any deceased intestate depositor according to the Statute of Distributions, the provisions thereof shall be held to apply to payments made to persons appearing to be next of kin according to the law of Scotland; and that where the said recited Act or Acts refer to probate of the will of the deceased, or letters of administration of his or her estate and effects, and provide that they shall or shall not be received in the cases therein provided, the said provisions in the said recited Act or Acts shall be held to apply to confirmation by the law of Scotland, and the same shall be required or dispensed with as therein provided.

Application of the law of Scotland in peculiar cases.

5. And be it further enacted, that this Act shall extend to all savings banks hereafter to be established in Scotland, and also to all savings banks already established in Scotland, as soon as they shall have been established under the provisions thereof, and be deemed a Public Act, and be

Act to extend to Scotland, and to be deemed a Public Act.

judicially taken notice of as such by all judges, justices, and other persons whomsoever, without the same being specially shown or pleaded.

IV.—*Sections affecting depositors in Post Office Savings Banks of* 7 *&* 8 *Vict. c.* 83.

AN ACT TO AMEND THE LAWS RELATING TO SAVINGS BANKS, AND TO THE PURCHASE OF GOVERNMENT ANNUITIES THROUGH THE MEDIUM OF SAVINGS BANKS.

Depositors on making first deposit to sign a declaration, and a copy thereof to be annexed to deposit book.

3. AND be it enacted, that from and after the twentieth day of November one thousand eight hundred and forty-four it shall not be lawful to receive from any depositor his or her first deposit in any savings bank without requiring him or her to sign the declaration required by the said recited Act, and in the manner therein mentioned, a copy of which declaration, with the penalty attached thereto if false, shall also be annexed to or printed at the beginning of the deposit book.[1]

Depositor to produce his book at institution.

5. And be it enacted, that provision shall be made in the rules of every savings bank that every depositor therein shall, once in every year at least, cause his deposit book to be produced at the office of the said institution for the purpose of being examined.

Trust accounts.

7. And be it enacted, that from and after the twentieth day of November one thousand eight hundred and forty-four, when deposits shall be made by a trustee on behalf of another, the sum shall be invested in the name of such trustee and

[1] Cf. section 34 of 9 Geo. IV. c. 92, and as to Trustee Savings Banks section 38 of 26 & 27 Vict. c. 87 and notes thereon, and *vide* chapter on the jurisdiction of the barrister.

the name of the person on whose account such sum shall be so deposited; and repayment of the same or any part thereof shall not be made by the trustees or managers of any savings bank without the receipt and receipts of the said trustee and the person on whose account such deposit may have been made, or the survivor or survivors, or the executors or administrators of such survivor, whose receipt and receipts, either in person or by agent appointed by power of attorney, which power of attorney shall be valid if executed by an infant of or exceeding the age of fourteen years, shall alone be a good and valid discharge to the said trustees and managers, except in case of the insanity or imbecility of the party on whose behalf the deposit has been made, upon proof of which to the satisfaction of the said trustees or managers repayment may be made to the said trustee; and an abstract of the above provisions shall be enrolled as one of the rules of the institution: Provided always, that nothing herein contained shall extend or be construed to extend to interfere with any trust accounts opened before the passing of this Act.[1]

Repayment of trust deposits.

10. And be it enacted, that in case any depositor in any savings bank shall die, leaving any sum of money in the said institution belonging to him or her at the time of his or her death, not exceeding in the whole the sum of fifty pounds,[2] exclusive of

Where deposits and interest do not exceed 50*l.* exclusive of interest, if will, &c. not proved within a month, money may be paid to widow or to party entitled to effects of deceased.

[1] Cf. section 37 of 26 & 27 Vict. c. 87 and notes thereon, note on regulation 7 and section 33 of 9 Geo. IV. c. 92, and note thereon. As to insanity, cf. regulation 22.

[2] Cf. section 43 of 26 & 27 Vict. c. 87. The eighteenth Post Office Regulation has been framed on this section, and the two may therefore be conveniently considered together. It will be observed that the wording of the two slightly differs, the eighteenth regulation authorising the Postmaster General to pay the deposits 'to or amongst the widow or relatives of the deceased

interest, and probate of the will of the deceased depositor, or letters of administration of his or her estate and effects, is not produced to the trustees or managers of the said institution, or if notice in writing of the existence of a will and intention to prove the same or to take out letters of administration is not given to the said trustees or managers within the period of one month from the death of the said depositor, and in the latter case unless such will is proved or letters of administration taken out within the period of two months from the death of the said depositor, it shall be lawful for the said trustees or managers to pay and divide the same to or amongst any person or persons who shall appear to such trustees or managers to be the widow, or entitled to the effects of such deceased depositor, according to the Statute of Distribution, or according to the rules of the institution, and the payment

depositor or any one or more of them, or if he shall think proper according to the Statute of Distributions.' It would appear, however, that the power of the Postmaster General to make regulations only extends to matters to which there is no provision applicable under the Acts, and consequently that where payment is not made to the widow as such it must be governed by the Statute of Distributions.

It has, however, been held by the barrister that the infant widow of a depositor cannot give a discharge, not being empowered to do so under the section under discussion, and also being further prohibited by the Infants Relief Act 1874, 37 & 38 Vict. c. 62. In such cases he considered that payment should be withheld till the widow was of age.

As before stated (see p. 82), donations *mortis causâ* and deeds of gift are not valid modes of disposing of deposits. Where the monies of a deposit or in a Post Office Savings Bank were claimed on her death by a person who produced a deed of gift in her own favour made by the deceased, the registrar, in accordance with the decisions of his predecessors, awarded that they were not the property of the claimant. *Re Spink*, October 30, 1876.—So in the case of a *donatio mortis causâ*, *re Watkins*, June 1877.

of any such sum of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased depositor, or as the lawful representative of such depositor against the funds of such savings bank, or against the trustees and managers thereof; but nevertheless such next of kin or representative shall have remedy for recovery of such money so paid as aforesaid against the person or persons who shall have received the same.

Payment on death of depositor, being illegitimate, and dying intestate.

11. And be it enacted, that if any depositor, being illegitimate, shall die intestate, leaving any person or persons who but for the illegitimacy of such depositor and of such person or persons would be entitled to the money due to such deceased depositor, it shall be lawful for the trustees or managers, with the authority in writing of the barrister appointed to certify the rules of savings banks, to pay the money due to such deceased depositor to any one or more of the persons as in their opinion would have been entitled to the same, according to the Statute of Distributions, if the said depositor and such person or persons had been legitimate.[1]

[1] Cf. the note on the twentieth Post Office Regulation which substantially reproduces this section. As to Trustee Savings Banks cf. section 46 of 26 & 27 Vict. c. 87 and notes thereon, and *vide* chapter on the jurisdiction of the barrister. Observe the difference between this section and section 46 of 26 & 27 Vict. c. 87, the present one giving rights to the illegitimate next of kin of depositors themselves illegitimate, which in Trustee Savings Banks they cannot claim.

But the present section does not meet the case of the illegitimacy of a third person not the depositor, through whom alone claim can be made. Thus where the illegitimate daughter of a mother herself illegitimate survived her mother, but died in the life-time of her grandmother, who was legitimate, the barrister held that the latter had no claim.

Payment to married women of deposits made by them, when declared to be valid.

12. And whereas deposits in savings banks may have been made and may be made by married women, and deposits may have been made and may be made by women who may have afterwards married: Be it enacted, that it shall be lawful for the trustees or managers of any savings bank to pay any sum of money in respect of any such deposit to any such woman, unless the husband of such woman shall give to such trustees or managers notice in writing of such marriage, and shall require payment to be made to him.[1]

Settlement of disputes.

14.[2] And be it enacted, that if any dispute shall arise between the trustees and managers of any savings bank and any individual depositor therein, or any executor, administrator, next of kin, or creditor, or assignee of depositor, who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next of kin, creditor, or assignee, or to be entitled to any money deposited in such savings bank, then, and

[1] Cf. Post Office Regulation 9. This section is virtually supplanted since the passing of the Married Women's Property Act by sections 2 & 9 of that statute (which see *post*) as regards all deposits made since 1870. With regard to those made before that date it would seem that the husband 'must come into court with clean hands,' and that on proof of his bad conduct he will forfeit his title to relief.

Thus, where a wife deposited monies in a Post Office Savings Bank in the names of herself and two infant children, and they were claimed by the husband, it being clearly proved that the deposits were part of a sum left to her by a deceased uncle, and that she had separated from her husband at the time of receiving it on account of his infidelity and cruelty, and had divided the whole sum so received with him; Mr. Pratt, the barrister-at-law under the Acts, held that though otherwise entitled under this section, the husband had forfeited his claim by his conduct, and awarded that the monies should be paid to the depositors.—*Re Smedley*, August 12, 1862.

[2] Cf. section 48 of 26 & 27 Vict. c. 87 and notes thereon, and *vide* chapter on the jurisdiction of the barrister.

in every such case the matter in dispute shall be referred in writing to the barrister at law appointed under the said recited Acts, who shall have power to proceed *ex parte* on notice in writing to the said trustees or managers left or sent by the said barrister to the office of the said institution; and whatever award, order, or determination shall be made by the said barrister shall be binding and conclusive on all parties, and shall be final to all intents and purposes without any appeal; and no submission to, or award, order, or determination of the said barrister shall be subject or liable to or charged with any stamp duty whatever.[1]

[1] With regard to the extent of the barrister's jurisdiction under this section, the following cases may serve as illustrations:—

Where stolen monies had been deposited by the guilty party in her own name, the barrister held that the lawful owner might either apply to the parties for a restitution order under 18 & 19 Vict. c. 126, or refer the matter as a dispute, and on the latter course being adopted awarded payment to the lawful owner.—*Re Parker*, August 11, 1875.

A private soldier, a depositor in a Post Office Savings Bank, stole some money including a 5*l.* Bank of England note from his serjeant. He was imprisoned, and judgment was obtained by the serjeant against him in the county court for 8*l.* 3*s.* On the statutory declaration of the serjeant, that, owing to the date and other particulars of the destroyed note not being discoverable, the Bank refused to issue a new note to him, and that no part of the 8*l.* 3*s.* had been paid, the registrar awarded payment to him of that amount out of the deposits, plus the costs of certified copies of the judgment and affidavit filed in the county court, which had been taken out for production at the hearing; but refused to allow the costs of an attachment against the postmaster.—*Re Glover*, June 7, 1877.

A deposit made by a married woman in her own name was claimed by a young man of weak intellect to whom the money had originally belonged. A gift was alleged and sworn to, but denied on oath by the claimant. It appeared that the depositor and her husband were living at the expense of the claimant, and that withdrawals had taken place for the purposes of a laundry business which the depositor was avowedly managing for

On reference, barrister

15. And be it enacted, that on any such

the claimant. The registrar held that the deposits belonged to him, and awarded payment of them accordingly, and the cancelling of the deposit book.—*Re Wedgwood*, January 29, 1877.

With regard to trusts not disclosed, where a woman, at the time of her remarrying, deposited some of her earnings in a Post Office Savings Bank in the name of a son by her first marriage (her reasons for so doing being the unsteady character of her second husband, and her wish to give her sons her money at her death), the registrar awarded payment to her of the money, her son having admitted the truth of these statements.—*Re Chaplin*, November 17, 1876.

Where a hearse had been purchased for the use of the inhabitants of a parish, and the proceeds of its letting deposited in the name of one of the churchwardens in a Post Office Savings Bank, the deposits being claimed on the one hand by the vicar for himself and the churchwardens, and on the other by the depositor (who had ceased to be churchwarden) on behalf of an alleged committee; it was held by the registrar that the churchwardens of the parish were the persons solely entitled on behalf of the parishioners to the deposits, and such deposits were awarded to be paid to them without the concurrence of the original depositor or of the vicar.—*Re Smith*, December, 1876.

It has been held that the widow of a creditor has no claim as such, and that to make such claim good administration should be taken out by her to the deceased depositor.

The barrister has also been of opinion that in case of claims for funeral expenses, such expenses must not contravene the rule of law that an executor or administrator is not justified in incurring those that are unnecessary, but only such as are suitable to the station in life of deceased and the custom of the country; also that the cost of a burial certificate cannot as a general rule be considered to form part of funeral expenses, though where there is no executor or administrator, the expense might be allowed.

The registrar has no power to award costs.

See further notes on Post Office Regulation 23.

It may be convenient also to note here some cases affecting the rights of husband and wife, as modified by protection order or by divorce.

When such questions arise, the Post Office Savings Bank Department merely give notice to the parties that

reference it shall be lawful for the said barrister[1] and he is hereby authorised to inspect any book or books belonging to the said institution relating to the matter in dispute, and to administer an oath to any witness appearing before him, or to take the affirmation in cases where affirmation is allowed by law instead of oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence,

may inspect books and administer oath to witnesses.

the deposits in question can only be paid under an order of the Court, under section 9 of the Married Women's Property Act, for which either party can apply. The Registrar, contrary to the view of his predecessor, has held that neither a protection order nor a divorce can affect a father's title to the effects of a child, except so far as any order was made by the Court under s. 45 of the 20 & 21 Vict. c. 85. Conversely, however, the wife under a protection order is entitled to the full disposal of her personalty, and is not excluded from any rights which she may have to that of her husband. Thus where a married woman obtained a protection order in 1872, which was duly registered, and then deposited money in a Post Office Savings Bank, which on her death was claimed by her husband, in opposition to her son claiming as his mother's representative, the Registrar awarded under s. 25 of 20 & 21 Vict. c. 85 (an Act to amend the Law relating to Divorce and Matrimonial Causes in England) that the husband had no title.—*Re Dickinson*, February 10, 1877. In a case where a widow in New South Wales claimed the deposits of a deceased husband, against whom she had obtained an order, the barrister was of opinion that there was no reason why she should be disentitled to them, provided the law of New South Wales as to judicial separation and the protection of married women was similar to that of England, and that, as a protection order is assimilated to a judicial separation obtained by the wife by s. 21 of 20 & 22 Vict. c. 85, and the latter does not dissolve the marriage, but merely deprives the husband of his rights in respect of his wife's property, it would be a great hardship to punish the innocent for the fault of the guilty, by depriving her of her rights as regards his property.

[1] Cf. section 49 of 26 and 27 Vict. c. 87 and notes thereon, and *vide* chapter on the jurisdiction of the barrister.

every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.[1]

Two written or printed copies of rules, &c. to be submitted to barrister for his certificate.

19. And be it enacted, that two written or printed copies of all rules or alterations of rules made in pursuance of the said recited Acts or this Act, signed by two trustees, with all convenient speed after the same shall be made, altered, or amended and so from time to time after every making, altering, or amending thereof, shall be submitted to the barrister at law appointed under the provisions of the said recited Act, for the purpose of ascertaining whether the said rules or alterations, or amendments thereof, are in conformity to law and with the provisions of the said Acts relating to savings banks or Government Annuity Society; and that the said barrister shall give a certificate on each of the said written or printed copies that the same are in conformity to law and the provisions of the said last-mentioned Acts, or point out in what part or parts the said rules, alterations, or amendments are repugnant thereto; and that the barrister for perusing the rules or alterations or amendments of the rules of such respective savings bank or Government Annuity Society, and giving such certificate, as aforesaid, shall demand no further fee than specified in the said recited Act;[2] and one of such written or printed copies, when certified by the said barrister, shall be returned to the trustees of the said institution, and the other of such transcripts or printed copies shall be transmitted by

Barrister to return one copy to institution, and transmit the other copy to Commissioners.

[1] This enactment must now be read in connection with the provisions of the Bankers' Books Evidence Act, 39 & 40 Vict. c. 48. Cf. Introduction, &c.

[2] In pursuance of this section, the Post Office Regulations were submitted for certification to the then barrister at law, Mr. Tidd Pratt (see *post*, p. 159.)

such barrister to the Commissioners for the Reduction of the National Debt; and that all rules, alterations, and amendments thereof, from the time when the same shall have been certified by the said barrister, shall be binding on the trustees, managers, and officers of the said institution, and the depositors therein and their representatives; and the copy of such rules deposited with the said Commissioners, or a true copy thereof, examined with the original and proved to be a true copy, shall be received as evidence of such rules respectively in all cases, and no certiorari shall be brought or allowed to remove any such rules into any of her Majesty's Courts of record.

Adaptation of provisions of this Act to the law of Scotland.

20. And be it enacted, that where this Act provides for payments made or to be made to any of the relations of any deceased intestate depositor according to the Statute of Distributions, the provisions thereof shall be held to apply to payments made or to be made to persons appearing to be next of kin according to the law of Scotland; and that where this Act refers to probate of the will of the deceased, or letters of administration of his or her estate and effects, the said provisions shall be held to apply to confirmation by the law of Scotland.

Provisions of this Act to apply to purchasers of annuities

21. And be it enacted, that all the provisions of this Act, in as far as the same can or may be applicable, shall apply to the trustees and managers of any Government Annuity Society, and to the parties purchasing annuities, and to the rules and regulations to be made for carrying the same into effect.

V.—22 & 23 *Victoriæ*, c. 53.

AN ACT TO ENABLE CHARITABLE AND PROVIDENT SOCIETIES AND PENNY SAVINGS BANKS TO INVEST ALL THEIR PROCEEDS IN SAVINGS BANKS.

WHEREAS by the Acts now in force friendly societies legally established are entitled to invest their funds to any amount in a savings bank: and whereas charitable societies and provident institutions can only invest to the amount of one hundred pounds per annum, and the amount of the sum to be invested by such institution or society cannot exceed the sum of three hundred pounds in the whole, exclusive of interest: and whereas it is expedient to place such societies and institutions, and also Penny Savings Banks, upon the same footing in that respect as friendly societies legally established: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same,—

Funds of Penny Savings Banks, &c. may be invested in savings banks to any amount.

1. That it shall be lawful for the trustees or treasurer of any Penny Savings Bank, charitable or provident institution or society, or charitable donation or bequest for the maintenance, education, or benefit of the poor in Great Britain or Ireland, to invest, with the approval of the Commissioners for the Reduction of the National Debt, or the Comptroller General acting under them, and under such regulations as shall be prescribed by them in that respect, the funds of such Penny Savings Bank, institution, or society, without restriction as to amount, into the funds of any savings bank duly established.

2. Provided always, that nothing contained in this Act respecting savings banks shall render it necessary to have the rules and regulations again certified if the same have been before certified according to law.

If savings banks rules are already certified they need not be again certified.

26 VICT. c. 14.

An Act to amend the Law relating to Post Office Savings Banks.[1]

Whereas it is expedient to amend the law relating to Post Office Savings Banks; to provide for the relief of the trustees where savings banks have been or shall be closed; and to make further provision in respect to the investment of the monies of Post Office Savings Banks: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

As to transfer of accounts of minors.

1. In the case of the accounts of minors, or of accounts standing in the names of a minor and any other party, either in a Post Office Savings Bank or in a savings bank established under the laws relating to savings banks, the Postmaster General in the one case, and the trustees of the savings bank in the other, on the application in writing of the parent or other relative of the minor if under seven years of age, and of the minor himself if above that age, and also of the other party, if any, in whose name the account

[1] Although prior in date to the 26 & 27 Vict. c. 87, this Act is not comprised in the Schedule of Acts thereby repealed, and therefore subsists as respects Trustee Savings Banks as well as Post Office Savings Banks.

may stand, shall issue a certificate for the transfer of such account, and of all money standing to the credit of such account, according to the provisions of the Act twenty-four Victoria, chapter fourteen, section ten, anything in the rules of any savings bank notwithstanding, and such account so transferred shall be opened in the Post Office Savings Bank or other savings bank to which the transfer is made in the name of such party, if any, and of the minor, or in the name of the minor alone, as the case may be; and the receipt of the party or parties making such application and receiving such transfer certificate shall be a sufficient discharge to the Postmaster General and to such trustees; but the money so transferred shall not be withdrawn, except with the consent of the Postmaster General, or of any two trustees or managers of the savings bank to which the transfer is made, until the minor shall have attained the age at which it might have been withdrawn under the rules of the savings bank from which it was transferred, a note whereof shall be made on the said certificate.[1]

On closing of savings banks, funds, &c. to be paid over to Commissioners for Reduction of National Debt.

2. Upon the final closing of any savings bank, or where any savings bank has already closed, the trustees or trustee for the time being thereof, or any two or more of them, shall forthwith notify the same in writing to the Commissioners for the Reduction of the National Debt, and shall, with the consent of the said Commissioners, convert into money any property, not being money, held by the said trustees of the savings bank, or by any person as trustee for the savings bank, and after paying the expenses of such conversion, and any claims thereon, shall account for and pay over the residue to the said Commissioners, to be by them carried to

[1] Cf. Post Office Regulation No. 8.

the separate surplus fund standing in the books of the said Commissioners, and the monies carried on account of each savings bank to the said separate surplus fund under this and the following section of this Act shall be subject to any claim that may thereafter be substantiated on account of any depositor in the savings bank so closed; and the receipt in writing of the said trustees or trustee for the time being, or any two or more of them, for any money paid to them by any purchaser or lessee, shall be an effectual discharge for the same, and the purchaser or lessee shall not be obliged to see to the application of such money, or be accountable or answerable for the loss, mis-application, or non-application thereof, or be bound to inquire whether the assent of the said Commissioners has been obtained to such sale or lease, or to the regularity thereof; and all purchases of any freehold or copyhold or leasehold estates which have already been made or may hereafter be made, with the consent of the Commissioners for the Reduction of the National Debt, or the Comptroller General acting under them, by the trustees of any savings bank, with the monies thereof, shall be and shall be deemed to have been as good, valid, and effectual in the law to all intents and purposes whatsoever as if the same had been or were expressly authorised or sanctioned by any statute relating to savings banks; and such purchases shall not be liable to any objection or their validity affected by reason of any defect in the right or power of such trustees to make such purchases; and a certificate under the hand of the said Comptroller General of any such purchase having been made, with such consent and with such monies as aforesaid, shall for all purposes whatsoever be conclusive evidence thereof: Provided

Receipt of trustees on sale of property to be a discharge to purchaser.

Security to purchasers.

always, that trustees of savings banks which are desirous of closing shall have power to compensate their officers out of any separate surplus fund that may belong to any such savings bank, with the consent of the Commissioners for the Reduction of the National Debt.[1]

Provision when trustees have determined on closing savings banks.

3. When the trustees of any savings bank shall have determined to close the savings bank for the receipt of deposits, and shall have given public notice of such intention by letter through the post office, prepaid, to each depositor at his residence when known, by advertisement in some one newspaper circulating in the district in which the savings bank is situate, and by affixing such notice on the outer door of the building in which the business of the savings bank is carried on, and shall have paid off three fourths of their depositors' amount, either in money or by transfer to a Post Office Savings Bank, such trustees may, if they think fit, transmit, under the hands of two trustees and three managers, to the Commissioners for the Reduction of the National Debt a certified list of such depositors as have not applied to them to receive their deposits or for transfer certificates, and of the amount due to them respectively, and the said Commissioners may thereupon receive from the said trustees all money

[1] As regards the sale of the real property of a savings bank, the present chief registrar has held that the assent of the National Debt Commissioners has no legal force except in the case of a closed savings bank, and that it appears extremely doubtful whether trustees have legal power to sell such property in any other case. They can therefore, in the case of a continuing savings bank, only sell land at their own peril, and nothing implying an assent of the Commissioners should appear in the conveyance, nor should any receipt by them for the purchase-money be endorsed. The assent of the Commissioners does not appear by the Act to be required for taking a lease, whatever its duration.

remaining in the hands of the said trustees or of their treasurer, and if such money, with the money belonging to the said savings bank in the hands of the said Commissioners, together with the proceeds of the sale of other property, as referred to in section two of this Act, shall be sufficient to discharge the whole of the liabilities of such trustees to the depositors, as set forth in the said list, then the certificate of the said Commissioners shall be a sufficient discharge to the said trustees in respect of all such money so paid over, or in the hands of the said Commissioners; and all such monies shall be held by the said Commissioners subject to the rights and claims of the depositors named in such list, who shall thenceforth be considered to be depositors in a Post Office Savings Bank; and such depositors, on presenting their deposit books at any Post Office Savings Bank, shall be entitled to claim payment of the sums due to them respectively, with the interest due to them thereon, and on establishing their claim shall be paid out of the monies so paid over by the trustees under this and the foregoing section of this Act and in the hands of the Commissioners as above referred to, and the surplus of such monies, if any, after providing for the sums due to such depositors, shall be carried to the separate surplus fund in the books of the said Commissioners.

As to conversion of annuities.

4. The Commissioners of Her Majesty's Treasury by warrant under the hands of any two or more of them, addressed to the Governor and Company of the Bank of England, may from time to time direct that out of the total amount of the capital stock of any perpetual government annuities, bearing interest at or exceeding the rate of three *per centum per annum*, standing in the names of the Commissioners for the Reduction of the National Debt on account of

Post Office Savings Banks in the books of the Bank of England, the amount of stock mentioned in such warrant shall be cancelled, and that in place thereof there shall be created and inscribed in the said books, in the names of the said Commissioners, a like amount of capital stock bearing interest at the rate of two pounds ten shillings *per centum per annum*; and the said Commissioners of her Majesty's Treasury shall by the said warrant authorise and direct the said Governor and Company to create and inscribe in the books of the bank, in addition to the said capital stock, bearing an interest of two pounds ten shillings *per centum per annum*, such an amount of annuity for a term of years ending on the fifth April one thousand eight hundred and eighty-five as shall be equivalent in value to the difference between the rate of two pounds ten shillings *per centum* and the rate of interest on the capital stock so cancelled, and the amount of such terminable annuity shall be ascertained and determined by the tables in force under the Act of the tenth George the Fourth, chapter twenty-four, under the authority of which annuities for terms of years are granted by the said Commissioners for the Reduction of the National Debt; and such stock and annuities so created in lieu of the annuities cancelled shall be held by the said Commissioners for Post Office Savings Banks; and all such two pounds ten shillings perpetual annuities shall be consolidated with and be deemed part of the two and a half *per centum* annuities created under the Act of the Sixteenth Victoria, chapter twenty-three, section two, and such terminable annuities shall be consolidated with and form part of the terminable annuities created under the Act of the twenty-third and twenty-fourth Victoria, chapter one hundred

and nine, section three, and the interest thereon shall be charged on the Consolidated Fund, and be paid and payable to the Bank of England, and such warrant shall be a sufficient authority to the said Governor and Company for the creation and inscription of the said stock and annuities respectively.

Power to appoint managers to sign transfer certificates.

5. The trustees of any savings bank, at a meeting called for that purpose, may appoint any number of managers to sign transfer certificates; and the signatures of any two of such managers to a transfer certificate shall be a sufficient authority to the Commissioners for the Reduction of the National Debt to transfer the amount set forth in such certificate; provided that a list of such managers, with their signatures certified by two trustees, shall have been previously deposited with the Commissioners for the Reduction of the National Debt; and provided also, that the said trustees may from time to time revoke such appointment and appoint other managers, notifying such revocation and appointment to the said Commissioners.

Warrants to be laid before Parliament.

6. Whenever the Commissioners of her Majesty's Treasury shall exercise the powers vested in them by the fourth section of this Act, copy of the warrant issued in respect thereof by the said Commissioners shall be laid before both Houses of Parliament within ten days of the date thereof, if Parliament shall be then sitting, and if not then sitting then in the ten days after the then next assembling of Parliament.

THE POST OFFICE REGULATIONS.

I. *Regulations of the Post Office Savings Banks.*

The following regulations are made under authority of the Act of Parliament, 24 Vict. c. 14, entitled 'An Act to grant additional Facilities for depositing small Savings at Interest, with the Security of the Government for due Repayment thereof.'

Hours of business.

1. Every post office, being a money order office, at which the Postmaster General shall permit deposits to be received for remittance to his principal office will be open for that purpose, and for the repayment of moneys withdrawn, during the hours appointed for the transaction of money order business at the said post office.

Any post office, not being a money order office, at which the Postmaster General shall permit deposits to be received or repaid shall be open for that purpose during such hours and on such days as the Postmaster General shall determine.

Amount of deposits.

2. Deposits of one shilling, or of any number of shillings, or of pounds and shillings, will be received from any depositor at the Post Office Savings Banks, provided the deposits made by such depositor in any year ending on the 31st day of December do not exceed 30*l.*, and provided the total amount standing in such depositor's name in the books of the Postmaster General do not exceed 150*l.*, exclusive of interest. When the principal and interest together, standing to the credit of any one depositor, amount to the sum of 200*l.*, all interest will cease so long as the same funds continue to amount to the said sum of 200*l.*

Name, address, and occupation of depositor to be furnished Declaration to be made by depositors.

3. Every depositor on making a first deposit shall be required to specify his christian name and surname, occupation, and residence to the officer of the Postmaster General appointed to receive the deposit, and make and sign the following declaration, to be witnessed by the officer of the Postmaster General appointed to receive deposits, or by some person known to him, or by the minister or a churchwarden of the parish in which the depositor resides, or by a justice of the peace; and if such declaration, or any part thereof, shall not be true, the depositor making the same shall forfeit and lose all right and title to his deposits :—

Form of declaration.

Depositor's Book. Place..... No.	COPY OF DECLARATION TO BE SIGNED BY DEPOSITOR ON MAKING FIRST DEPOSIT.

In pursuance of an Act of Parliament, I, of do hereby declare to the Postmaster General that I am desirous on my own behalf to become a depositor in the Post Office Savings Bank. I do further hereby declare, that I am not directly or indirectly entitled to any deposit in, or benefit from the funds of this or any other savings bank in Great Britain or Ireland,[1] nor to any sum or sums standing in the name or names of any other person or persons in the books of the said Post Office Savings Bank; and I do hereby also testify my consent that my deposits in the said Post Office Savings Bank shall be managed according to the regulations thereof.

Witness my hand, this day of 186 .

Signed by the said Depositor .....
in the presence of me,
..... } .....
..... } .....

Save and except such benefit as I may be entitled to from being a member of a friendly society legally established, or from such sum or sums as may be standing in my name as trustee jointly with the name or names, and on behalf of any other depositor or depositors.

A copy of the above declaration shall be printed within the cover of every depositor's book.

[1] Cf. note on s. 34 of 9 Geo. IV. c. 92.

4. On making the declaration, and in all cases in which the signature of the depositor is required, if the depositor cannot write, his mark must be affixed in the presence of a witness, and attested by the signature of that witness.

If depositor cannot write.

5. Every deposit received by any officer of the Postmaster General, appointed for that purpose, shall be entered by him at the time in a numbered book, and the entry shall be attested by him, and by the dated stamp of his office, and the said book, with the entry so attested, shall be given to the depositor and retained by him as primary evidence of the receipt of the deposit. The depositor shall sign his name in a place to be provided for his signature in the depositor's book. The amount of each deposit, and the name, occupation, and residence of the depositor, shall, upon the day of the receipt thereof, be reported to the Postmaster General, and the acknowledgment of the Postmaster General for the said deposit signified in the following form, by the officer whom he shall appoint for the purpose, shall be forthwith transmitted by post to the depositor as the conclusive evidence of his claim to the repayment of the deposit with interest thereon :—

Deposits, how received, entered, reported to the Postmaster General and acknowledged.

Form of acknowledgment.

Depositor's Book.	SAVINGS BANK DEPARTMENT,
Place.....	GENERAL POST OFFICE, LONDON,
No.	.....18 .

The Postmaster of having reported to the Postmaster General the receipt by him of your deposit of £ that amount has been placed to the credit of your account in the books of this department.

Examined— .....

..... Controller.

.....

.....

NOTICE.—This acknowledgment is of NO VALUE to any person but the depositor to whom it is addressed.

If the depositor does not receive the said acknowledgment within ten days from the day on which he made the deposit, he must apply for the same to the Postmaster General, by letter, and if necessary he must renew his application to the Postmaster General until he receives the said acknowledgment.

Interest.

6. Interest, calculated yearly, at the rate of two pounds ten shillings *per centum per annum*, shall be allowed on every complete pound deposited, and shall be computed from the first day of the calendar month next following the day on which a complete pound shall have been deposited, or on which deposits of a less amount shall have made up a complete pound, up to the first day of the calendar month in which monies are withdrawn.[1]

The interest will be calculated to the 31st December in every year, and will then be added to and become part of the principal money.

Trust account.

7. Deposits may be made by a trustee on behalf of another person,[2] in the joint names of such trustee and the person on whose account such money shall be so deposited; but repayment of the same, or any part thereof, shall not be made without the receipt and receipts of both the said parties, or the survivor or survivors, or the executors or administrators of such survivor, whose receipt and receipts either personally or by agent appointed by power of attorney, which power of attorney may be executed by an infant of or exceeding the age of 14 years,

[1] The interest thus calculated will be at the rate of one halfpenny per calendar month for every complete pound.

[2] Cf. note on s. 7 of 7 & 8 Vict. c. 83. The barrister has held that this regulation is discretional, and that in cases of imbeciles and lunatics, the Postmaster General may withhold payment to the trustee if he be not satisfied that the money will be used for the benefit of such imbecile or lunatic.

shall alone be a valid discharge, except in case of insanity or imbecility of the party on whose behalf the deposits were made, when the Postmaster General may, on proof of the fact to his satisfaction, allow repayment to be made to the trustee alone.

The following declaration must be made in such cases :—

Form of declaration.

Depositor's Book.	FORM OF DECLARATION TO BE SIGNED BY THE TRUSTEE OF A DEPOSITOR.
Place.....	
No.	

In pursuance of an Act of Parliament, I, of do hereby declare to the Postmaster General, that I am desirous of becoming a depositor in the Post Office Savings Bank, as the trustee of of , and I do further declare, on behalf of myself and also on behalf of the said , that we are not either jointly or severally directly or indirectly entitled to any deposit or benefit from the funds of this or of any other savings bank in Great Britain or Ireland, nor to any sum or sums standing in the name or names of any other person or persons in the books of the savings banks above mentioned.

Witness my hand, this day of 186 .

Signed by the said Trustee in the presence of me, ...

.....
.....

Save and except such benefit as I or he may be entitled to from being a member of a friendly society legally established, or from such sum or sums as may be standing in my name as a depositor, on my own account; or as trustee jointly with the name or names, and on behalf of any other depositor or depositors.

And in case any such declaration shall not be true, or if any person shall at any time have or hold or be possessed of any deposit or funds in more than one savings bank within the United Kingdom, every such person shall forfeit and lose all right and title to any deposit in or to any funds of any and every such savings bank.

Minors.

8. Deposits may be made by, or for the benefit of, any person under 21 years of age, and repayment shall be made to such minor after the age of 7 years in the same manner as if he were of full age. In case of minors under the age of 7 years, the declaration must be made by one of the parents, or a friend on behalf of the minor.[1]

Married women.

9. Deposits may be made by married women, and deposits so made, or made by women who shall afterwards marry, will be repaid to any such woman, unless her husband shall give notice in writing of such marriage to the Postmaster General, and shall require payment to be made to him.[2]

Friendly and charitable societies, and penny banks.

10. The trustees of any friendly society, the rules of which have been certified by the Registrar of Friendly Societies in England, Scotland, or Ireland (as the case may be), or of any charitable, or provident society,[3] or penny savings bank, approved by the National Debt Commissioners, may deposit their funds, without restriction as to amount in the Post Office Savings Bank; provided always that such deposits shall not be of less amount than one shilling, nor of any sum not a multiple thereof,

[1] See note on s. 1 of 26 & 27 Vict. c. 14.

Cf. note on s. 12 of 7 & 8 Vict. c 83, and also that on s. 9 of 33 & 34 Vict. c. 93.

[2] Cf. note on ss. 28 & 29 of 9 Geo. IV. c. 92. This regulation is now superseded by sections 2 & 9 of the Married Women's Property Act 1870.

[3] It was held by the present chief registrar, with regard to a proposed investment, in a Post Office Savings Bank, of the funds of an incorporated building society, that though lawful under section 25 of the Building Societies Act 1874, the Savings Banks Acts do not authorise the taking of deposits in a corporate name, and therefore that, until provision is made to that effect by regulation, the Post Office is unable to receive them.

Unincorporated Building Societies under the 6 & 7 Will. IV. c. 32, are by s. 6 of that Act expressly precluded from investing their funds 'in any savings bank.'

and that a copy of the rules be forwarded by post to the Postmaster General, with the names and addresses of the trustees, who will then be furnished with the necessary instructions.

The following declaration must be made in cases of Friendly Societies :—

Form of declaration.

Depositor's Book.	DECLARATION.
Place.....	I, being the (Trustee, Treasurer, Steward or Clerk) of the Friendly Society called the held at in the County of and duly (enrolled, registered, or certified, as the case may be) do hereby declare, that I am desirous, on behalf of the trustees of the said society, of depositing in the Post Office Savings Bank the sum of £ and I hereby declare that subsequently to 7th August 1840, no sum exceeding £200 has been assured by the said society to any individual, or to any person nominated by, or to claim under him or her; and I further declare, that the sum above stated is the exclusive property of the said society, specified in this declaration, and arises from the contributions of the members of the said society (and from donations, if donations have been received), and that the said friendly society has no fund deposited in any other savings bank.
No.	

Witness my hand, this day of 186 ,

..... { Trustee, or / Treasurer, or / Steward, or / Clerk ..... } of the said Society.

Signed in the presence of me,

....

NOTE.—In case of false declaration, the sum paid on such declaration will be forfeited.

The following declaration must be made in cases of Charitable Institutions :—

Declaration.

Depositor's Book.	DECLARATION.
Place.....	I, being the (Trustee or Treasurer) of the Charitable Society or Provident Institution or Society, or charitable donation or bequest, for the maintenance, education, or benefit of the poor, (as the case may be,) held at in the county of do hereby declare that I am desirous of depositing the sum of £ in the Post Office Savings Bank on behalf of the said society; and that the society has no fund deposited in any other savings bank.
No.	Witness my hand, this day of 186 , ... {Trustee or Treasurer} of the said Society. Signed in the presence of me, ...

NOTE.—In case of false declaration, the sum paid on such declaration will be forfeited

Annual transmission of depositor's book to principal office of Postmaster General.

11. Every depositor shall, once in each year, on the anniversary of the day on which he made his first deposit, forward his book to the principal office of the Postmaster General, in a cover to be obtained at any Post Office Savings Bank, in order that the entries in the said book may be compared with the entries in the books of the Postmaster General, and that the interest due to the depositor may be inserted in his book.

Depositors' books.

12. No charge shall be made upon depositors for the books at first supplied to them, or for books issued to them in continuation thereof; but if any depositor shall lose his book, and shall desire a new book, application must be made by him to the Postmaster General, by letter, stating the circumstances, and enclosing postage stamps of the value of one shilling to pay for the new book should the application be granted, and the Postmaster General shall, as he thinks fit, issue a new book, or return the stamps to the applicant.

Postage.

13. No charge for postage shall be made upon the depositors for the transmission of their books to the Postmaster General, or for the return thereof to

them, or for any applications they may have to make for acknowledgments of deposits, or for any application or necessary letter of inquiry respecting the sums deposited by them, or for the replies thereto.

Transfer of deposits to or from other savings banks.

14. Any depositor in the Post Office Savings Bank, who may desire to transfer [1] his deposits to any other savings bank legally established, shall, on his written application, accompanied by his book, to the chief office of the Postmaster General, in a form to be obtained at any Post Office Savings Bank, be furnished with a certificate, in the following form, of the whole amount due to him, and his account with the Post Office Savings Bank shall thereupon be closed :—

Form of certificate from post-office.

FORM OF CERTIFICATE

To be issued to any depositor desiring to transfer his deposits from the Post Office Savings Bank to another savings bank legally established.

Depositor's Book.	POST OFFICE SAVINGS BANK.
Place.....	
No.	

Whereas of a depositor in the Post Office Savings Bank, is desirous of closing his account with the said bank, for the purpose of transferring his deposits to the savings bank, established according to law, at , and to enable him to do so the said depositor has applied for a certificate of the whole amount due to him, pursuant to the Act 24 Vict. cap. 14, sec. 10. I HEREBY CERTIFY that the sum due to the said depositor for money deposited by him in the Post Office Savings Bank, including all interest due to him to this date, amounts to the sum of £ of which, the sum of £ was deposited before the 31st December last.

And I FURTHER CERTIFY that his account with the Post Office Savings Bank has been closed by the issue of this certificate.

Witness my hand, this day of 186 .

.....

Entered.....
Examined.....

Controller,
Savings Bank Department,
General Post Office, London.

[1] Cf. s. 10 of 24 Vict. c. 14, on which this provision is based.

Upon delivery of such certificate to the trustees or managers of the savings bank to which it is proposed by the depositor to transfer the deposit they shall, if they think fit, open an account for the amount stated in such certificate, upon the depositor making the usual declaration.

Any depositor in any legally established savings bank who may desire to transfer his account to the Post Office Savings Bank may require from the trustees or managers of such bank a certificate, in the following form, signed by two trustees of such savings bank stating the amount due to him, and thereupon his account with such bank shall be closed :—

Form of certificate from savings bank.

FORM OF CERTIFICATE.

To be issued to any depositor desiring to transfer his deposits from a savings bank legally established to the Post Office Savings Bank.

.....SAVINGS BANK.

Whereas of a depositor in the Savings Bank, is desirous of closing his account with the said bank, for the purpose of transferring his deposits to the Post Office Savings Bank, and to enable him to do so the said depositor has applied for a certificate of the whole amount due to him, pursuant to the Act 24 Vict. cap. 14. sec. 10. WE HEREBY CERTIFY that the sum due to the said depositor for money deposited by him in the Savings Bank, inclusive of all interest due to him to this date, amounts to the sum of £ of which, the sum of £ has been deposited since the 20th November last. And WE FURTHER CERTIFY that his account with the said savings bank has been closed by the issue of this certificate.

Witness our hands, this day of 186 .

.....

Examined..... .....

Actuary or Secretary of the Savings Bank. Two of the Trustees of the Savings Bank.

The said certificate may be delivered to any officer of the Postmaster General authorised to receive deposits under the Post Office Savings Bank Act and shall be received by him as if it were a deposit of the amount therein set forth; and on the said certificate being forwarded to London, and verified by the National Debt Commissioners, an account for the amount thereof shall be opened with the said depositor, and an acknowledgment for the said amount sent to him.

Withdrawals.

15. Any depositor wishing to withdraw the whole or part of the sum deposited by him, must make application for the same to the Postmaster General, in the following form, a printed copy of which may be obtained at any Post Office Savings Bank :—

Form of notice of withdrawal.

Depositor's Book.	(Date) day of 18 .
Place.....	TO HER MAJESTY'S POSTMASTER GENERAL, LONDON.
No.	

I hereby give notice that I wish to withdraw the sum of from my deposit account, bearing the above number in the books of the Post Office Savings Bank, and I request that a warrant may be issued for the above-named sum, and made payable to me at the.....Post Office.

..... Signature
..... Address
.....
..... Occupation
} Of Depositor.

In this form the depositor must specify the number of his book, the name of the office at which his first deposit was made, the sum he wishes to withdraw, his occupation and residence, and the post office at which he wishes to receive his money. On receipt of this application, a warrant, in the following form, for the amount required, payable at the office named, shall be sent to him by post :—

Form of warrant.

FORM OF WARRANT.

To be issued to enable a depositor to receive payment of a sum withdrawn.

Depositor's Book.	Warrant No.....
Place.....	SAVINGS BANK DEPARTMENT, GENERAL POST OFFICE, LONDON.
No.	.....18 .

To the Postmaster of.....

Pay of the sum of on production of his deposit book, and on his satisfying you that he is the person entitled to the same, and charge the amount to this department.

Entered.....
Examined.....
£ " " .....Controller.

DEPOSITOR'S RECEIPT.

I hereby acknowledge the receipt of the above-named Sum.

.....(Signature of Depositor).

Stamp of Paying Post Office.

By the same post, the postmaster at whose office the warrant is made payable shall be advised of the issue of the warrant. This warrant must be presented by the depositor at the post office named thereon, together with the depositor's book, in which the postmaster shall enter the amount repaid, and attest the entry with his signature and the dated stamp of his office. The postmaster shall take a receipt from the depositor on the warrant for the amount repaid to him, which receipt is not chargeable with stamp duty.

The Postmaster General will endeavour to prevent fraud and to identify every depositor transacting business with the Post Office Savings Bank; but if any person shall fraudulently represent himself to be a depositor, and by forwarding the proper notice of withdrawal, and by presentation of the depositor's

book, and compliance with the rules of the department shall obtain any sum of money belonging to that depositor, the Postmaster General will not be responsible for the loss thereof.

16. Repayments shall be made only to the depositor in person or to the bearer of an order under his hand, signed in the presence of either the minister or a churchwarden of the parish in which the depositor resides, or a justice of the peace, or, in case of sickness, of the medical attendant. If the depositor be resident abroad, his signature must be verified by some constituted authority of the place in which he resides. Repayment to a depositor unable to attend personally.

The following is the form of order to be signed by the depositor on such occasions, a copy of which may be obtained at the post office at which the warrant is made payable :— Form of order.

FORM OF ORDER TO BE SIGNED BY A DEPOSITOR WHO CANNOT ATTEND PERSONALLY TO RECEIVE PAYMENT.

Depositor's Book.	No. of Warrant ...
Place.....	Date of do.
No.	

To the Postmaster of.....

I, the undersigned, do hereby authorise and direct the bearer of this order, to receive on my account the sum of due to me under the above described warrant of the Post Office Savings Bank, for which sum the receipt of the above-named person shall be a good and sufficient discharge.

As witness my hand, this day of 186

Witness,

.....Signature	.....Signature
.....Address	.....Address
.....Occupation	.....Occupation
of Witness	of Depositor.

17. Applications to withdraw money deposited by any friendly, charitable, or provident society, or Withdrawals by friendly or

charitable societies and receipts for the same.

penny savings bank, must be signed by two of the trustees of any such society or penny savings bank, or, when there is no trustee, then by the treasurer, and the names of the trustee, or treasurer, or other officer of the society authorised to receive the amount to be withdrawn, shall be stated in the notice of withdrawal, and the warrant for payment of the amount shall be made out in the name of such trustee, treasurer, or officer, and the receipt of such person apparently authorised shall be a sufficient discharge for the same.

Funds of a deceased depositor, not exceeding 50*l.*

18. In case any depositor shall die leaving any sum of money not exceeding 50*l.*,[1] exclusive of interest, deposited in the Post Office Savings Bank, and probate of his will, or letters of administration, be not produced to the Postmaster General, or if notice in writing of the existence of a will, and intention to prove the same, or to take out letters of administration, be not given to the Postmaster General at his principal office within the period of one month from the death of the depositor; or if such notice be given, but such will be not proved, or letters of administration be not taken out, and the probate or letters of administration (as the case may be) produced to the Postmaster General within the period of two months from the death of the depositor, it shall be lawful for the Postmaster General after such period of one or two months, as the case may be, to pay and divide such funds at his discretion to or amongst the widow, or relatives, of the deceased depositor or any one or more of them; or, if he shall think proper, according to the Statute of Distributions.

Funds of deceased depositors above 50*l.*

19. In case any depositor shall die leaving any sum of money in the Post Office Savings Bank which

[1] For decisions on this regulation *vide* note on s. 10 of 7 & 8 Vict. c. 83.

(exclusive of interest) shall exceed the sum of fifty pounds, the same shall only be paid to the executor or administrator on the production of the probate of the will, or letters of administration, of the estate or effects of the deceased depositor, to the Postmaster General.

Payment on death of a depositor, being illegitimate, and dying intestate.

20. If any depositor, being illegitimate, shall die intestate, leaving any person or persons who, but for the illegitimacy of such depositor, and of such person or persons, would be entitled to the money due to such deceased depositor, it shall be lawful for the Postmaster General, with the authority, in writing, of the barrister at law appointed to certify the rules of savings banks, to pay the money of such deceased depositor to any one or more of the persons who, in his opinion, would have been entitled to the same, according to the Statute of Distributions, if the said depositor, and such person or persons, had been legitimate.[1]

Certificate for exemption from stamp duty.

21. In all cases wherein a certificate shall be required of the amount of the balance standing in the books of the Post Office Savings Bank to the credit of a deceased depositor for the purpose of obtaining, free of stamp duty, a probate of will or letters of administration, such certificate shall be in the following form :—

Form of certificate.

Depositor's Book.	POST OFFICE SAVINGS BANK.
Place.....	It is hereby certified that the balance standing in the books of the Post Office Savings Bank to the credit of the depositor of numbered as above, on the day of in the year 18 amounts in the whole to the sum of
No.	
Witness my hand, this day of 18 .	
Entered.....	.....
Examined.....	Controller, Savings Bank Department, General Post Office, London

[1] Cf. s. 11 of 7 & 8 Vict. c. 83, and note on s. 46 of 26 & 27 Vict. c. 87.

Incapacitated depositors.

22. If any depositor shall become insane, or otherwise incapacitated to act, and the same shall be proved to the satisfaction of the Postmaster General, and if the Postmaster General shall be satisfied of the urgency of the case, he may authorise payment, from time to time, out of the funds of such depositor to any person whom he shall judge proper, and the receipt of such person shall be a good discharge for the same.[1]

Settlement of disputes.

23. If any dispute shall arise between the Postmaster General and any individual depositor, or any executor, administrator, next of kin, or creditor, or assignee of a depositor who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next of kin, creditor, or assignee, or to be entitled to any money deposited in the Post Office Savings Bank, then, and in every such case, the matter in dispute shall be referred, in writing, to the barrister at law appointed under the Savings Banks Acts; and whatever award, order, or determination shall be made by the said barrister shall be binding and conclusive on all parties, and shall be final, to all intents and purposes, without any appeal.[2]

Secrecy.

24. The officers of the Postmaster General engaged in the receipt or payment of deposits shall not disclose the name of any depositor, nor the amount deposited or withdrawn by him, except to the Postmaster General, or to such of his officers as

[1] Under this regulation, where a lunatic was maintained by a parochial board in Scotland, it was held that the Postmaster General had power to authorise payments out of his deposits to such board, or to some person authorised by them, but only on evidence of the amount paid from time to time on account of the lunatic.

[2] Cf. note on s. 14 of 7 & 8 Vict. c. 83, for the principal decisions on this head.

may be appointed to assist in carrying out the provisions of the Post Office Savings Banks Act.

25. In the construction of these regulations, unless there is something in the subject or context repugnant thereto, every word importing the singular number only shall mean and include several persons or things, as well as one person or thing, and the converse; and every word importing the masculine gender only shall mean and include a female as well as a male; and the word month shall refer to a calendar and not a lunar month. Interpretation.

STANLEY OF ALDERLEY,
Postmaster General.

General Post Office, London, 13 August, 1861.

Approved by the Lords Commissioners of Her Majesty's Treasury, this 14th day of August, 1861, pursuant to the Act 24 Vict. cap. 14.

GEO. A. HAMILTON,
Assistant Secretary of the Treasury.

I hereby certify that the foregoing Regulations are in conformity with law and with the provisions of the Acts relating to savings banks and the Act 24 Vict. cap. 14.

JOHN TIDD PRATT,
The Barrister appointed to certify the Rules of Savings Banks.

London, 15 August, 1861.

SECTIONS AFFECTING DEPOSITORS IN SAVINGS BANKS OF THE MARRIED WOMEN'S PROPERTY ACT (33 & 34 VICT. C. 93), AN ACT TO AMEND THE LAW RELATING TO THE PROPERTY OF MARRIED WOMEN.[1]

WHEREAS it is desirable to amend the law of property and contract with respect to married women:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Earnings of married women to be deemed their own property.

1. The wages and earnings of any married woman acquired or gained by her after the passing of this Act in any employment, occupation, or trade in which she is engaged or which she carries on separately from her husband, and also any money or property so acquired by her through the exercise of any literary, artistic, or scientific skill, and all investments of such wages, earnings, money, or property, shall be deemed and taken to be property held and settled to her separate use, independent of any husband to whom she may be married, and her receipts alone shall be a good discharge for such wages, earnings, money, and property.

[1] The sections of the Married Women's Property Act which relate to or may affect savings bank deposits and monies assimilated to them are the 1st, 2nd, 6th, 7th, 9th, 10th, and 16th.

2. Notwithstanding any provision to the contrary in the Act of the tenth year of George IV. chapter twenty-four, enabling the Commissioners for the Reduction of the National Debt to grant life annuities and annuities for terms of years, or in the Acts relating to savings banks and Post Office Savings Banks, any deposit hereafter made and any annuity granted by the said Commissioners under any of the said Acts in the name of a married woman, or in the name of a woman who may marry after such deposit or grant, shall be deemed to be the separate property of such woman, and the same shall be accounted for and paid to her as if she were an unmarried woman;[1] provided that if any such deposit is made by, or such annuity granted to, a married woman by means of monies of her husband without his consent, the court may, upon an application under section nine of this Act, order such deposit or annuity or any part thereof to be paid to the husband.[2]

Deposits in savings banks by a married woman to be deemed her separate property.

Proviso.

[1] Cf. notes on section 9. Where deposits had been withdrawn before marriage and were claimed by a wife under this section, the barrister considered that there is nothing in the Act to affect cash actually in the wife's hands at the time of marriage, and consequently that she has no right to dispose of it, and the husband is entitled to the benefit of any trust which may be attempted to be constituted in it in her favour.—Where deposits made partly before and partly after the passing of the Act are disposed of by will by a married woman, the latter only will pass by such will, and with respect to them the sole receipt of the executor is a sufficient discharge. In the case of those made prior to the Act, the joint receipt of the executor and husband will be required.—The executors of a man dying in the lifetime of his wife have no claim to her deposits made since the passing of the Act, save perhaps in the case of a pending application made by him under section 9.

[2] The effect of this section seems to be that a married woman's deposits are assimilated to property settled to her separate use. She has full power to dispose of them in her lifetime, or by will, but if she dies intestate, the

Deposit of monies in fraud of creditors invalid.

6. Nothing herein-before contained in reference to monies deposited in or annuities granted by savings banks or monies invested in the funds or in shares or stock of any company shall as against creditors of the husband give validity to any deposit or investment of monies of the husband made in fraud of such creditors, and any monies so deposited or invested may be followed as if this Act had not passed.

Personal property not exceeding 200*l.* coming to a married woman to be her own.

7. Where any woman married after the passing of this Act shall during her marriage become entitled to any personal property as next of kin or one of the next of kin of an intestate, or to any sum of money not exceeding two hundred pounds under any deed or will, such property shall, subject and without prejudice to the trusts of any settlement affecting the same, belong to the woman for her separate use, and her receipts alone shall be a good discharge for the same.

How questions as to ownership of property to be settled.

9. In any question between husband and wife as to property declared by this Act to be the separate property of the wife, either party may apply by summons or motion in a summary way either to the Court of Chancery in England or Ireland

husband is entitled to them as personalty in possession, subject to the payment of her debts. Her title moreover is a *primâ facie* one by statute, and consequently the burthen of proving that deposits standing in her name do not belong to her, rests upon the adverse claimant. See Griffiths' Married Women's Property Acts, 3rd edition, pp. 24, 26.

Where a married woman after depositing in a savings bank obtains a Protection Order, the effect of it will be to vest in her absolutely all deposits subsequently made, and the interest on the whole sum; and in the event of her death intestate, the whole of such two amounts may be paid to the next of kin, the husband's rights affecting only the deposits previously made, and interest previously accrued.

according as such property is in England or Ireland, or in England (irrespective of the value of the property) the judge of the county court of the district in which either party resides, and thereupon the judge may make such order, direct such inquiry, and award such costs, as he shall think fit; provided that any order made by such judge shall be subject to appeal in the same manner as the order of the same judge made in a pending suit or on an equitable plaint would have been, and the judge may, if either party so require, hear the application in his private room.[1]

An opinion has been given by the Law Officers of the Crown to the effect that the deposits, made since the Married Women's Property Act, 1871, of a married woman who dies intestate do not pass to her husband surviving *jure mariti* without letters of administration. The Registrar's decision, *re Gallantry* (see p. 163), will therefore not be followed.

wholly to overrule the Savings Banks Act, [illegible] power of the registrar to decide disputes in cases between husband and wife.

Where a husband claimed the deposits of his wife (being over 50*l.*) made in her own name in the Liverpool Savings Bank after the passing of the Married Women's Property Act, and which were made from monies coming to her under her father's will but not settled to her separate use, the registrar, contrary to the practice of his predecessors, awarded that the monies were payable to her executors if she left a will, but if she died intestate leaving a husband, then to him, *jure mariti*, and that administration was not necessary.—*Re Gallantry*, March 26, 1877.

Deposit of monies in fraud of creditors invalid.

6. Nothing herein-before contained in reference to monies deposited in or annuities granted by savings banks or monies invested in the funds or in shares or stock of any company shall as against creditors of the husband give validity to any deposit or investment of monies of the husband made in fraud of such creditors, and any monies so deposited or invested may be followed as if this Act had not passed.

Personal property not exceeding 200*l.* coming to a married woman to be her own.

7. Where any woman married after the passing of this Act shall during her marriage become entitled to any personal property as next of kin or one of the next of kin of an intes[illegible] of money not exceedi-

How questions as to ownership of property to be settled.

hus
sior
mor [illegible] consequently
the [illegible] that deposits standing in her nam[illegible] not belong to her, rests upon the adverse claimant. See Griffiths' Married Women's Property Acts, 3rd edition, pp. 24, 26.

Where a married woman after depositing in a savings bank obtains a Protection Order, the effect of it will be to vest in her absolutely all deposits subsequently made, and the interest on the whole sum; and in the event of her death intestate, the whole of such two amounts may be paid to the next of kin, the husband's rights affecting only the deposits previously made, and interest previously accrued.

according as such property is in England or Ireland, or in England (irrespective of the value of the property) the judge of the county court of the district in which either party resides, and thereupon the judge may make such order, direct such inquiry, and award such costs, as he shall think fit; provided that any order made by such judge shall be subject to appeal in the same manner as the order of the same judge made in a pending suit or on an equitable plaint would have been, and the judge may, if either party so require, hear the application in his private room.[1]

Married woman may effect policy of insurance.

10. A married woman may effect a policy of insurance upon her own life or the life of her husband for her separate use, and the same and all benefit thereof, if expressed on the face of it to be so effected, shall enure accordingly, and the contract in such policy shall be as valid as if made with an unmarried woman.

As to insurance of a husband for benefit of his wife.

A policy of insurance effected by any married man on his own life, and expressed upon the face

[1] Cf. s. 48 of 26 & 27 Vict. c. 87, s. 12 of 7 & 8 Vict. c. 83, and Regulation 9 of the Post Office Savings Banks, all of which are superseded by this section in cases of deposits made by married women after 1870. The registrar has held that in such cases, section 2 of this Act, together with the present section, are so framed as wholly to override the Savings Banks Acts, including the power of the registrar to decide disputes in cases between husband and wife.

Where a husband claimed the deposits of his wife (being over 50*l.*) made in her own name in the Liverpool Savings Bank after the passing of the Married Women's Property Act, and which were made from monies coming to her under her father's will but not settled to her separate use, the registrar, contrary to the practice of his predecessors, awarded that the monies were payable to her executors if she left a will, but if she died intestate leaving a husband, then to him, *jure mariti*, and that administration was not necessary.—*Re Gallantry*, March 26, 1877.

of it to be for the benefit of his wife or of his wife and children, or any of them, shall enure and be deemed a trust for the benefit of his wife for her separate use, and of his children, or any of them, according to the interest so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband or to his creditors, or form part of his estate. When the sum secured by the policy becomes payable, or at any time previously, a trustee thereof may be appointed by the Court of Chancery in England or in Ireland according as the policy of insurance was effected in England or in Ireland, or in England by the judge of the county court of the district, or in Ireland by the chairman of the Civil Bill Court of the division of the county, in which the insurance office is situated, and the receipt of such trustee shall be a good discharge to the office. If it shall be proved that the policy was effected and premiums paid by the husband with intent to defraud his creditors, they shall be entitled to receive out of the sum secured an amount equal to the premiums so paid.

Married women may maintain action.

11. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money, and property by this Act declared to be her separate property, or of any property belonging to her before marriage, and which her husband shall, by writing under his hand, have agreed with her shall belong to her after marriage as her separate property, and she shall have in her own name the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money, and property, and of any chattels or other property purchased or obtained by means thereof for her own use, as if such wages, earnings, money,

chattels, and property belonged to her as an unmarried woman; and in any indictment or other proceeding it shall be sufficient to allege such wages, earnings, money, chattels, and property to be her property.

15. This Act shall come into operation at the time of the passing of this Act. Commencement of Act.

16. This Act shall not extend to Scotland. Act not to extend to Scotland.

17. This Act may be cited as the 'Married Women's Property Act, 1870.' Short title.

39 & 40 VICT. c. 52. (THE SAVINGS BANK BARRISTER ACT.) AN ACT TO AMEND THE LAW RESPECTING THE POWERS AND DUTIES VESTED IN THE BARRISTER APPOINTED TO CERTIFY THE RULES OF SAVINGS BANKS.

26 & 27 Vict. c. 87. s. 66.

WHEREAS under the Act relating to savings banks the Commissioners for the Reduction of the National Debt are authorised to appoint a barrister to certify the rules of savings banks, and by the said Act and the Acts relating to Post Office Savings Banks, and to the National Debt Commissioners, certain powers and duties are vested in the barrister, and it is expedient to make further provision respecting such powers and duties:

Be it therefore further enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Savings Bank (Barrister) Act, 1876.

Transfer to other officers of certain savings banks.

2. The powers and duties vested by the Acts relating to savings banks, Post Office Savings Banks, and the Commissioners for the Reduction of the National Debt, in the barrister appointed to certify the rules of savings banks shall be transferred and vested as follows: [1]

[1] *Vide* chapter on the Jurisdiction of the Barrister. The sections of the Friendly Societies Act (38 & 39 Vict.

(1.) The power of certifying rules, and alterations or amendments of rules of savings banks, and the powers and duties relating to any dispute arising between the trustees and managers of any savings bank or (in the case of a Post Office Savings Bank) the Postmaster General on the one hand and any depositor or person claiming through or under a depositor on the other hand, shall be transferred to and vested in the registrar as defined by the Friendly Societies Act, 1875; and

(2.) All powers and duties (other than those above in this section mentioned) shall be transferred to and vested in such persons as the Commissioners of her Majesty's Treasury (in this Act referred to as the Treasury) from time to time appoint.

Every person to whom any power or duty of the barrister appointed to certify the rules of savings banks is transferred by this section shall, for the purpose of the exercise of such power or duty, and of the enactments relating thereto, have the same powers and authorities as and be deemed to be the barrister appointed to certify the rules of savings banks; but any such power or duty which is vested in the said registrar when exercised or performed by the assistant registrars for Scotland and Ireland shall be so exercised or performed, subject to the direction of the chief registrar in the Friendly Societies Act, 1875, mentioned.

Any person purchasing an annuity or contracting for the payment of a sum of money at his death, who is by any Act directed to be considered as a

c. 60) referred to are the 4th and 10th, which define the office of Registrar.

depositor in a savings bank, shall be deemed to be a depositor within the meaning of this Act.[1]

Power to charge fee on certificate, award, &c.

3. The Treasury may, if they think fit, by warrant direct that there shall be charged upon any certificate or authority given, and any award, order, or determination made by the registrar or other person in pursuance of the powers vested in him by this Act, such reasonable fee, not exceeding in any case one pound, as may be from time to time fixed by the warrant of the Treasury.

Every such fee shall be paid into the Exchequer, and shall be paid by such persons and in such manner as may be directed by the warrant.

After any such warrant is made no other fee but such as is allowed by the warrant shall be charged or taken in respect of any matter for which a fee can be charged under this section, but until any such warrant is made any fee heretofore payable shall continue payable, but shall be paid into the Exchequer.

The draft of every warrant proposed to be made by the Treasury in pursuance of this section shall be laid before both Houses of Parliament for at least forty days before the said warrant is made.

The Public Offices Fees Act, 1866, shall apply to a fee payable under this section.

[1] Purchasers of annuities under this section are therefore brought within the two jurisdictions of the Registrar of Friendly Societies and the Solicitor to the Treasury, though as regards disputes they still have the alternative of a recourse to the County Court given by s. 10 of 27 & 28 Vict. c. 43. Cf. Introduction, p. 16.

39 & 40 VICT. c. 48 (THE BANKERS' BOOKS EVIDENCE ACT). AN ACT TO AMEND THE LAW WITH REFERENCE TO BANKERS' BOOKS EVIDENCE.

WHEREAS serious inconvenience has been occasioned to bankers and also to the public by reason of the ledgers and other account books being removed from the banks for the purpose of being produced in legal proceedings :

And whereas it is expedient to facilitate the proof of the transactions recorded in such ledgers and account books :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited for all purposes as the Bankers' Books Evidence Act, 1876.

Interpretation clause.

2. The word 'bank' in this Act shall mean any person or persons, partnership or company, carrying on the business of bankers, and who at the commencement of each year shall have made their return to the Commissioners of Inland Revenue, and any savings bank certified under the Act of 1863.

The words 'legal proceedings' in this Act shall include all proceedings, whether preliminary or final, in courts of justice, both criminal and civil, legal and equitable, and shall include all proceedings,

whether preliminary or final, by way of arbitration, examination of witnesses, assessment of damages, compensation, or otherwise, in which there is power to administer an oath.[1]

The words 'the court' in this Act shall mean the court, judge, magistrate, sheriff, arbitrator, or other person authorised to preside over the said legal proceedings for the time being, and shall include all persons, judges, or officers having jurisdiction and authorised to preside over or to exercise judicial control over the said legal proceedings or the procedure or any steps therein.[2]

The words 'a judge of one of the superior courts' shall mean respectively a judge of her Majesty's High Court of Justice in so far as this Act applies to England and Wales, a lord ordinary of the outer house of the court of session in Scotland in so far as it applies to Scotland, and a judge of one of the superior courts at Dublin in so far as it applies to Ireland.

Entries in books by affidavit admissible in evidence.

3. From and after the commencement of this Act the entries in ledgers, day books, cash books, and other account books of any bank shall be admissible in all legal proceedings as *primâ facie* evidence of the matters, transactions, and accounts recorded therein on proof being given by affidavit in writing of one of the partners, managers, or officers of such bank, or by other evidence that such ledgers, day books, cash books, or other account books are or have been the ordinary books of such bank, and that the said entries have been made in usual and ordinary course of business, and that such books are in or come immediately from the custody

[1] This definition would include proceedings before the Registrar.

[2] This definition would include the Registrar.

or control of such bank. Nothing in this clause contained shall apply to any legal proceeding to which any bank whose ledgers, day books, cash books, and other account books may be required to be produced in evidence shall be a party.[1]

Originals need not be produced.

4. Copies of all entries in any ledgers, day books, cash books, or other account books used by any such bank may be proved in all legal proceedings as evidence of such entries without production of the originals, by means of the affidavit of a person who has examined the same, stating the fact of the said examination, and that the copies sought to be put in evidence are correct.[2]

Proviso as to notice to parties in a suit.

5. Provided always, that no ledger, day book, cash book, or other account book of any such bank, and no copies of entries therein contained, shall be adduced or received in evidence under this Act, unless five days' notice in writing, or such other notice as may be ordered by the court, containing a copy of the entries proposed to be adduced and of the intention to adduce the same in evidence, shall have been given by the party proposing to adduce the same in evidence to the other party or parties to the said legal proceeding, and that such other party or parties is or are at liberty to inspect the original entries and the accounts of which such entries form a part.

Power under order of court to inspect books and take copies.

6. On the application of any party to any legal proceedings who has received such notice, a judge of one of the superior courts may order that such

[1] Since the Savings Bank is a party in all proceedings before the Registrar under the Savings Bank Acts, it would appear that this enactment does not apply to such proceedings.

[2] If, as suggested above, the original entries are not evidence in proceedings before the Registrar, it would seem to follow that copies cannot be evidence, and in such case this section also does not apply to such proceedings.

party be at liberty to inspect and to take copies of any entry or entries in the ledger, day books, cash books, or other account books of any such bank relating to the matters in question in such legal proceedings, and such orders may be made by such judge at his discretion either with or without summoning before him such bank or the other party or parties to such legal proceedings, and shall be intimated to such bank at least three days before such copies are required.

Judge may order that copies are not admissible.

7. On the application of any party to any legal proceedings who has received notice, a judge of one of the superior courts may order that such entries and copies mentioned in the said notice shall not be admissible as evidence of the matters, transactions, and accounts recorded in such ledgers, day books, cash books, and other account books.

Bank no compellable to produce books except in certain cases.

8. No bank shall be compellable to produce the ledgers, day books, cash books, or other account books of such bank in any legal proceedings, unless a judge of one of the superior courts specially orders that such ledgers, day books, cash books, or other account books should be produced at such legal proceedings.

Proof as to status of bank.

9. The fact of any such bank having duly made their return to the Commissioners of Inland Revenue may be proved in any legal proceedings by production of a copy of such return, verified as having been duly made by the affidavit in writing of one of the partners, or of the manager, or of one of the officers of such bank, or by the production of a copy of a newspaper purporting to contain a copy of such return, published in such newspaper by the said Commissioners of Inland Revenue.

THE GOVERNMENT ANNUITIES ACTS.

I.—16 & 17 *Vict. c.* 45.

AN ACT TO CONSOLIDATE AND AMEND THE LAWS AND TO GRANT ADDITIONAL FACILITIES IN RELATION TO THE PURCHASE OF GOVERNMENT ANNUITIES THROUGH THE MEDIUM OF SAVINGS BANKS, AND TO MAKE OTHER PROVISIONS IN RESPECT THEREOF.

WHEREAS it is expedient that the existing Acts of Parliament relating to the purchase of government annuities through the medium of savings banks should be repealed, in order that the same may be consolidated and amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

So much of 3 W. 4. c. 14, and 7 & 8 Vict. c. 83, as relates to purchase of Government annuities through the medium of savings banks, &c. repealed.

1. So much of the Act passed in the third year of the reign of King William the Fourth, chapter fourteen, as relates to the enabling depositors in savings banks and others to purchase government annuities through the medium of savings banks and parochial societies, and so much of another Act passed in the seventh and eighth years of her present Majesty, chapter eighty-three, as relates to the purchase of government annuities through the medium of savings banks, shall be repealed, except as to anything heretofore done, or which shall here-

after be required to be done, in respect to any annuities granted under the said Acts or either of them, and except also so far as may be necessary for the purpose of any proceedings to be taken under or by virtue of the same Acts or either of them, such repeal to commence and take effect on and after the tenth day of October one thousand eight hundred and fifty-three.

Commissioners for Reduction of National Debt may receive money from depositors, &c. for purchase of annuities.

2. From and after the said tenth day of October one thousand eight hundred and fifty-three, it shall and may be lawful for the Commissioners for the Reduction of the National Debt to grant to or for the benefit of any depositor in a savings bank, or other person whom the said Commissioners shall think entitled to be or to become a depositor in a savings bank, any immediate or deferred life annuities depending on single lives, or immediate annuities depending on joint lives with benefit of survivorship or on the joint continuance of two lives, to any amount not less than four pounds, to or for the benefit of any one person, and to receive payment for such immediate life annuities in one sum, and for such deferred life annuities either in one sum or in annual sums payable for fixed periods.[1]

Annuity may be granted to husband and to wife.

3. Such annuity may be granted to or possessed by any married man or woman, although an annuity to the same or a less amount may have been granted to or possessed by the wife or husband of such party.

Deferred annuities may be granted with a condition that

4. The said Commissioners may grant such deferred life annuities on condition that the purchase money shall be returnable, but without interest, in which case such purchase money with-

[1] Modified by s. 1 of 27 & 28 Vict. c. 43.

out interest shall be returnable at any time on the application of the person beneficially interested in such annuity, or after his death on the application of his executors or administrators; provided always, that in no case whatever shall such purchase money or any part thereof be returned after the first payment of the said annuity shall have actually become due, and the monies so returnable shall be charged, paid, and defrayed out of the monies standing in the names of the said Commissioners at the Bank of England under the provisions of this Act.

Purchase money shall be returnable.

5. The said Commissioners may grant in like manner and to the like persons deferred life annuities, of not less than one pound or some multiple thereof not exceeding thirty pounds [1] in the whole, to any one person, and receive payment for such annuity in one sum on condition that the purchase money shall not be returnable.

Annuities may be granted with a condition that purchase money shall not be returnable.

6. Where a party who has contracted under the Acts hereby repealed or shall contact under this Act for the purchase of a deferred life annuity by annual payments shall, after having made one or more of such payments, be unable to pay the residue thereof, the said Commissioners may, at the option of the party beneficially interested in such annuity, grant to such party a life annuity, immediate or deferred, equivalent to the amount of the several payments so made by him, instead of returning the amount of such payments in money.

Parties unable to keep up annual payments may have an annuity granted in lieu of having money returned.

7. Where a party has already contracted under the Acts hereby repealed, or shall hereafter contract under this Act, by payment in one sum for a deferred life annuity, the said Commissioners may, at the option of the party, grant an immediate

Power to convert deferred into immediate annuity.

[1] The limit is extended to 50*l.* by s. 2 of 27 & 28 Vict. c. 43.

life annuity in place and instead of the deferred life annuity, which shall forthwith be cancelled.

Name of party to be always inserted in grant.

8. No annuity shall be granted under the authority of this Act unless the name of the party on whose life and for whose benefit the purchase is proposed to be effected shall be inserted in the grant as a joint proprietor of the said annuity.

Cases in which grants of annuities may be to trustees.

9. No such annuity shall be granted otherwise than in the sole name of the person on whose life and for whose benefit the said annuity is granted, except in the case of females, infants under the age of twenty-one years, idiots, persons of unsound mind or incapacitated by bodily or mental infirmity from taking care of themselves, of which proof shall be afforded at the time of making the contract to the satisfaction of the said Commissioners, or Comptroller General or Assistant Comptroller acting under them, in which cases it shall be lawful to grant such annuities as are authorised by this Act upon the life of any such person to such person and to any two or more persons not interested therein as trustees for such person, under such regulations as shall be prescribed by the said Commissioners or Comptroller General.

Power to grant payment of money on death of persons purchasing deferred annuities.

10. The said Commissioners may contract with any such person or persons for the payment of a sum of money on his or her death.[1]

Contracts may be made at National Debt office or through the medium of savings banks, &c.

11. The said Commissioners may make such contracts with such parties for the grant of any annuities under the authority of this Act, either directly at their own office or through the medium of savings banks or parochial or other societies, or agents duly authorised by the said Commissioners for such purpose, and under such regulations as the

[1] Repealed as to the remainder of the section by s 3, of 27 & 28 Vict. c. 43, and see ss. 4 & 5 of the same Act.

said Commissioners shall prescribe, and in such last-mentioned cases may authorise the said savings banks and societies and agents to take and demand the like fees as are sanctioned in respect to such annuities by the Act of the seventh and eighth Victoria above referred to.[1]

Money paid on account of purchase of annuity to be kept distinct, and paid to account of Commissioners.

12. The said annuities and payments on death herein referred to are hereby made chargeable upon the Consolidated Fund of the United Kingdom, and all sums of money from time to time paid on account of such contracts under this Act, or under the Acts hereby repealed, shall be paid into the Bank of England or into the Bank of Ireland to the account of the Commissioners for the Reduction of the National Debt, under such regulations as the said Commissioners shall from time to time prescribe in that respect; and the cashiers of the Bank of England or Bank of Ireland are hereby required to receive all such monies, and to place the same to the accounts of the said Commissioners to be entitled 'The Fund for purchasing Life Annuities or for Payments on Death, on the Account of Depositors in Savings Banks (as the case may be);' and the said Commissioners shall in like manner keep distinct and separate accounts of all monies so placed to the said accounts, pursuant to the provisions of this Act.

Commissioners to make rules, regulations, &c.

13. The said Commissioners, or the Comptroller General or Assistant Comptroller acting under the said Commissioners, may require such proofs of age and of identity, and such certificates, and make such rules and regulations in respect to the grant of

[1] *I.e.* for every annuity under 5*l.*, 5*s.*; 5*l.* and under 10*l.*, 10*s.*; 10*l.* and under 15*l.*, 15*s.*; 15*l.* and under 20*l.*, 1*l.*; 20*l.* and under 25*l.*, 1*l.* 5*s.*; 25*l.* and under 30*l.*, 1*l.* 10*s.*

all annuities, and for securing payments on death, under the authority of this Act, and to the payment thereof, and also to the payment of all annuities granted under the Acts hereby repealed, as may appear to them to be necessary and proper for carrying out the purposes of this Act; and may decline or refuse to contract for any annuity or for any payment on death, under the provisions of this Act, in any case where there shall be in the opinion of the said Commissioners, or of the said Comptroller General or Assistant Comptroller, sufficient grounds for refusing or declining so to do.

Commissioners, &c. may decline to contract for annuities or payments on death.

14. If any one individual shall by his own direct act have or hold or be possessed of or entitled to any annuity or annuities granted under the provisions of this Act or of the Acts hereby repealed, exceeding in the whole the sum of thirty pounds per annum, or shall make a false declaration in relation to any matter or thing required by the regulations of the said Commissioners, all the said annuity or annuities and payments on death shall be forfeited.

Penalty on persons making false declaration, &c.

15. If any person having contracted for the payment of a sum of money on death in the manner herein-before provided shall at any time, in writing, in a form approved of by the said Commissioners, and deposited with them during his life, direct that the sum payable at his or her death be commuted for an annuity for life, to commence at his or her death, and to be paid to any persons nominated in the said writing, such commutation shall take effect, when approved of by the said Commissioners, or by the Comptroller General or Assistant Comptroller acting under the said Commissioners, and the person so nominated shall be entitled to such

Persons contracting for payments of sums of money at death may commute the same into an annuity payable after death to nominees.

life annuity as shall be the equivalent to such sum of money so payable after death as aforesaid, such annuity to commence and take effect on and from the sixth day of January, sixth day of April, sixth day of July, and eleventh day of October, as the case may be, next immediately following the death of the party nominating, and be payable and paid at the next following half-yearly period.

Treasury shall direct use of tables of the value of annuities as approved by them.

16. For the better carrying this Act into execution it shall and may be lawful for the Commissioners of her Majesty's Treasury, from time to time as they shall think fit, to direct the Commissioners for the Reduction of the National Debt to use and adopt such tables as shall from time to time be authorised and approved of by the said Commissioners of the Treasury for determining the values of all annuities, of whatsoever kind, which may be granted according to the provisions of this Act, as well as tables for payment of sums of money at death, and such respective tables shall be valid and effectual for the purposes of this Act; and all annuities for lives, of whatsoever kind, to be purchased under the provisions of this Act shall be purchased, and all payments for sums to be secured at death shall be contracted for, according to the values stated in such tables respectively, so long as the same shall remain in force; and the said Commissioners of the Treasury may alter, revoke, and recall all or any of the said tables from time to time, and direct the use and adoption of such other tables in lieu thereof as shall be approved of by the said Commissioners of the Treasury, and also discontinue, by any warrant under their hands addressed to the said Commissioners for the Reduction of the National Debt, the granting of any annuities for lives, or of sums payable at

death, under the provisions of this Act, if they shall think it fit and expedient so to do: Provided always, that the said Commissioners for the Reduction of the National Debt shall, previous to the adoption and using of any such tables, and discontinuance of the granting of such annuities and payments at death as aforesaid, give notice thereof from time to time in the London, Edinburgh, and Dublin Gazettes, in such form and manner as to the said Commissioners for the Reduction of the National Debt shall seem fit and proper: Provided also, that the tables now in force in respect to annuities grantable under the authority of the Acts hereby repealed shall be valid and effective for the purchase and grant of any annuities under this Act, so far as they are applicable thereto, until altered, revoked, and recalled by the said Commissioners of the Treasury.[1]

Purchasers of annuities for lives shall be entitled to such amount of annuity as shall be specified in the tables.

17. In every case when any sum of money shall be paid as the consideration for the purchase of any annuity for lives of whatsoever kind, under the provisions of this Act, or for securing a payment on death, the person or persons purchasing any such annuity for lives or for securing such payment on death, shall be entitled to receive from the period at which the said annuity is to commence and take effect an annuity for a life, or for joint lives with benefit of survivorship, or on the joint continuance of two lives, as the case may be, of such annual amount as shall be specified in any such table or tables respectively as the Commissioners of her Majesty's Treasury shall from time to time authorise and approve in manner hereinbefore directed, to be calculated and ascertained

[1] See ss. 6 & 7 of 27 & 28 Vict. c. 43.

according to the age of the party; and every payment to be made on death shall in like manner be ascertained and settled according to the said tables so to be approved and adopted from time to time as aforesaid.

Life annuities granted under this Act and payments at death shall be carried to a separate account.

18. All life annuities, of whatsoever kind, which shall be purchased and granted under the provisions of this Act, (whether such life annuities shall commence immediately or not,) and all payments at death, shall, in their due course as the same shall fall due and become payable, be carried to a new and separate account in the books of the said Commissioners for the Reduction of the National Debt.

Life annuitants may make further purchases without fresh certificates.

19. Whenever proof of the age of any person shall have been once produced to the said Commissioners under the provisions of any Act for the purchase of any annuity or annuities on the life of such person, the original proof of the age of such person, produced at the time of the purchase of the first annuity upon the life of such person, shall be deemed sufficient in the case of any proposed purchase of a further annuity on such life under the provisions of this Act, or of any other Act or Acts now in force authorising the grant of annuities, without the production of any further proof of age.

Amount of annuities from time to time, and sums payable on death, shall be certified to the Treasury, who shall issue their warrant to the Exchequer for payment thereof out

20. The said Comptroller General or Assistant Comptroller acting under the said Commissioners shall, within fourteen days preceding the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October in each and every year, certify to the Commissioners of her Majesty's Treasury the amount of annuities for lives, and sums payable at death, which will become payable under this Act out of the said Consolidated

of the Consolidated Fund.

Fund on each of such days respectively, and the said Commissioners of the Treasury shall thereupon order and direct the Comptroller General of the Exchequer to issue out of the said Consolidated Fund from time to time to the account of the said Commissioners for the Reduction of the National Debt the sums specified in such certificates, to be applied in paying such annuities and sums payable at death respectively.

Time of payment of annuities granted under this Act.

21. All annuities for lives, of whatsoever kind, which shall be purchased under the provisions of this Act, shall be payable by two equal half-yearly payments, to become due respectively on the fifth day of January and on the fifth day of July, or on the fifth day of April and the tenth day of October, in each and every year, according to the respective periods, as herein-after mentioned, within which any money shall be paid for the purchase of any such annuities for life, of whatsoever kind respectively; and the first half-yearly payment of every such annuity so purchased shall be made at the times following; (that is to say,) on the fifth day of January in respect of all such purchases completed by the actual payment of money into the Bank of England or into the Bank of Ireland to the account of the said Commissioners herein-after mentioned at any time during the quarter ending on the tenth day of October preceding such fifth day of January; on the fifth day of April in respect of all such purchases so completed at any time during the quarter ending on the fifth day of January preceding the fifth day of April; on the fifth day of July in respect of all such purchases so completed at any time during the quarter ending the fifth day of April preceding such fifth day of July; and on the tenth day of October in respect of all such purchases

so completed at any time during the quarter ending on the fifth day of July preceding such tenth day of October; and all future half-yearly payments of every such annuity shall be made with reference to the time of such first half-yearly payment; and upon the death of any annuitant in respect of any life annuity a sum equal to one fourth part of the annuity depending upon the life of such annuitant (over and above all half-yearly arrears thereof respectively) shall be payable to the person or persons entitled to such annuity, or his or her or their executors or administrators, (as the case may be,) on the half-yearly days of payment next succeeding the production of proof to the said Commissioners certifying the death of such annuitant, if such proof shall be produced to the said Commissioners not less than thirty days next preceding the fifth day of January, fifth day of April, fifth day of July, and tenth day of October respectively in every year, and that such last-mentioned payment shall be claimed within two years after the death of such annuitant, but not otherwise; but the fourth part of any expired life annuity payable under the provisions of this Act shall not be payable or be paid upon or in respect of any deferred life annuity unless one half-yearly payment of such deferred life annuity shall have been actually paid or become due at the time of the decease of such annuitant; and all sums payable at death shall become due and payable on the fifth day of January, fifth day of April, fifth day of July, and tenth day of October next immediately following the day on which such death shall be proved to the satisfaction of the said Commissioners, or the Comptroller General or Assistant Comptroller: Provided always, that proof of such death shall have been given

On death of annuitant a quarter's payment to be made in addition to half-yearly arrears.

Proviso as to deferred annuities.

thirty days previously to such fifth day of January, fifth day of April, fifth day of July, and tenth day of October, as the case may be, and if not, then and in such case such payment shall not be made until the next succeeding quarter day.

Annuities, &c. to be paid at National Debt office, or at savings banks, &c.

22. All monies becoming due as aforesaid on account of such annuities already granted or to be granted hereafter, and all payments on death, shall be paid to the several parties respectively entitled thereto by the said Commissioners, at the office of the said Commissioners, or by savings banks, or parochial societies, or other agents specially authorised by the said Commissioners to make such payment, under such regulations as shall from time to time be issued by the said Commissioners, or the said Comptroller General or Assistant Comptroller acting under them,

Contracts for annuities not to be made for fourteen days after the quarterly day of payment.

23. For the space of fourteen days next after any of the said quarterly days for payment of the said annuities respectively no contract shall be made by or on behalf of the said Commissioners for the Reduction of the National Debt for the grant or purchase of any annuity or sum payable at death under this Act, anything herein-before contained to the contrary in anywise notwithstanding.

Monies paid to Commissioners on account of this Act to be invested in bank annuities, annuities for terms of years, or exchequer bills, which shall be cancelled.

24. The said Commissioners for the Reduction of the National Debt shall cause all monies placed to their said accounts for the purchase of annuities or for securing payments on death, in pursuance of the provisions of this Act or of the Acts hereby repealed, to be invested from time to time, under such regulations as the said Commissioners shall direct, in the purchase of any bank annuities, or annuities for terms of years, or exchequer bills, or in either of them, and to be carried to the accounts herein-before provided; which said bank annuities, annui-

ties for terms of years, and exchequer bills (as the case may be) shall be forthwith cancelled, and all interest or dividends on such bank annuities, annuities for terms of years, or exchequer bills shall cease to be charged upon or to be issued out of the Consolidated Fund from and after the day upon which any such bank annuities, annuities for terms of years, or exchequer bills shall have been purchased by the said Commissioners: Provided nevertheless, that the said Commissioners for the Reduction of the National Debt may retain and reserve from time to time so much of such monies as shall be necessary for the purpose of enabling the said Commissioners to return and pay back any sum of money, as herein-before directed, to such person as shall have contracted for the purchase of any annuity under the provisions of this Act, or of the Acts hereby repealed, by annual or other payments, but who may not make good and keep up the same, and who is entitled to receive back the same, or to his, her, or their executors or administrators, as well as to the executors or administrators of such person who may die before the annuity which he, she, or they may have contracted for becomes payable, or for re-purchase of any annuity or annuities in manner herein-after provided.

Commissioners may reserve a part of such sums to repay money claimed in case of death, &c. of party purchasing annuity.

25. The right, title, interest, and benefit in and to any annuity, of whatsoever kind, which has been purchased under any Act now in force for the grant of annuities through savings banks or parochial societies, or which may be purchased under the provisions of this Act, shall not be assignable by the original proprietor thereof so as to enable the assignee to receive the same during the lifetime of the said proprietor; except in case of the insolvency or bankruptcy of an individual proprietor, when

Annuities granted under this Act not assignable, except in case of bankruptcy or insolvency.

the same shall become the property of his or her assignee or assignees, for the benefit of his or her creditors; and in case of any such bankruptcy or insolvency the said Commissioners for the Reduction of the National Debt shall re-purchase the said annuity according to the value thereof, the same being computed upon the same tables upon which the said annuity was originally purchased; and the receipt of the assignee or assignees shall be a sufficient discharge to the said Commissioners, who shall forthwith cancel the said annuity.[1]

Transfer may be made by trustees to secure interest of party beneficially interested.

26. When any annuity for life, immediate or deferred, shall have been purchased under the Acts hereby repealed or this Act, in the names of more parties than one, the said Commissioners may permit the party or parties not beneficially interested therein, jointly with the party who is beneficially interested, whether such party be of the age of twenty-one years or not, to transfer the said annuity or annuities to other parties, of whom the party beneficially interested shall always be one, under such regulations as the said Commissioners shall prescribe in that respect, for the purpose of securing that no assignment shall thereby be made of the interest of the said party to any other person or persons whatsoever: Provided always, that where the party beneficially interested is incapable, from any of the causes set forth in section nine of this Act, from joining in such transfer, the said Commissioners may permit such transfer, notwithstanding, under such regulations as shall appear to them to be necessary to secure the interest of the party beneficially interested in such annuity.

Life annuities to be free from

27. Life annuities purchased under the provi-

[1] Contracts for sums at death, on the other hand, are assignable; see s. 11 of 27 & 28 Vict. c. 43.

sions of this Act shall be free from all taxes, charges, or impositions whatever; and all such annuities shall be deemed personal estate.

taxes, and to be personal estate.

28. An account shall be made up on the fifth day of January in every year, by the Commissioners for the Reduction of the National Debt, of all annuities of whatsoever kind granted in pursuance of any of the Acts hereby repealed or under this Act which shall have remained unclaimed for the space of three years then next preceding, and all such annuities so remaining unclaimed, together with the unclaimed half-yearly arrears thereof, and also all such annuities of whatsoever kind which shall have expired; and all half-yearly arrears thereof shall cease to be charged upon and shall not be issued or issuable out of the said Consolidated Fund from and after the day upon which such annuities shall have remained so unclaimed or shall have expired; but nothing in this Act contained shall extend to defeat or prejudice the rights of any persons entitled to such unclaimed annuities who shall at any subsequent period give proof of their title to such annuities to the satisfaction of the said Commissioners, or the said Comptroller General.

Yearly account to be made up of unclaimed annuities, &c.

Arrears, &c. of three years standing to cease to be charged on Consolidated Fund, but not to prejudice rights of parties.

29. No stamp duty whatever shall be paid or payable upon or in respect of any copy of any register of birth or baptism or marriage or burial, or upon or in respect of any certificate or declaration to be made or taken in pursuance of this Act, or any certificate or other instrument whatsoever respecting the payment of money for the purchase of any annuity or sum payable at death under this Act, or any power of attorney authorising the receipt or any receipt for the payment of any such annuity or any part thereof, or for the payment of any sum of money payable at death.

Receipts, &c. exempt from stamp duty.

If certificate on declaration contain any untrue statement of age, &c. the money paid to be forfeited, and right to annuity to cease.

30. If any certificate or declaration shall be produced to the officer of the Commissioners for the Reduction of the National Debt which shall contain any untrue statement of the age of any person to whom an annuity has been granted under this Act, or of any person who has contracted for a sum payable at death, with intent to obtain an annuity on the continuance of the life of any person under the age of ten years, or to obtain any higher rate or amount of annuity or any payment on death greater than would or might be allowed under the provisions of this Act, according to the true age of such person, then and in every such case all money which may have been paid for or on account of the purchase of such annuity or payment on death shall be forfeited to the said Commissioners, and all right and title to any annuity or to any payment on death which would or might otherwise have been payable in respect thereof shall cease and determine.

Persons forging register, certificate transfers, &c. to be liable to punishment for forgery.

31. If any person or persons shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any register or registers of birth or baptism or death or burial required under the provisions of this Act, or any copy or certificate of any such register, or the name or names of any witness or witnesses to any such certificate, or any declaration required to be taken for any of the purposes of this Act, or any certificate of any justice of the peace or magistrate, or of any officer acting under the said Commissioners for the Reduction of the National Debt, of any such declaration having been taken before him, or any certificate of any governor, or person acting as such, or minister, or consul, or chief magistrate of any province, town,

or place, or other person authorised by this Act to grant any certificate of the life or death of any annuitant; or shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any certificate or certificates of any officer of the Commissioners for the Reduction of the National Debt, or of any cashier or clerk of the Bank of England or Bank of Ireland, or the name or names of any person or persons in or to any certificate or other instrument for the payment of money for the purchase of any annuity, or sum payable at death, under the provisions of this Act, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments due or to become due thereon, or for any sum payable at death, under the provisions of this Act, or authorising or purporting to authorise the receipt of any life annuity, or any annuity for years, of whatsoever kind, or sum payable at death, granted under this Act, or under either of the Acts hereby repealed, or any payment or payments due or to become due thereon; or if any person or persons shall wilfully, falsely, and deceitfully personate any true and real annuitant, or shall wilfully utter, or deliver or produce to any person or persons acting under the authority of this Act, any such forged register or copy of register, or any such forged certificate or declaration, knowing the same to be forged, counterfeited, or altered, with intent to defraud her Majesty, her heirs and successors, or with intent to defraud any person or persons whomsoever; then and in every such case all and every persons and person so offending, and being duly convicted thereof, shall be and is hereby declared to be subject and

liable to such pains and penalties as by any laws in force any persons convicted of forgery are subject and liable to.

Penalty on persons guilty of perjury.

32. If any person in any declaration to be made before any justice of the peace or magistrate, or before any officer acting under the said Commissioners, under the provisions of this Act, shall wilfully or corruptly declare to any matter or thing which shall be false or untrue, every such person so offending, and being duly convicted thereof, shall be and is hereby declared to be subject and liable to such pains and penalties as by any laws in force any persons convicted of wilful and corrupt perjury are subject and liable to.

Penalty on receiving annuity after death of nominee, treble the amount received.

33. If any person or persons shall for his, her, or their own use, or for the use of any other person or persons, receive any one or more payment or payments (otherwise than as authorised by this Act) upon or in respect of any annuity granted under the provisions of this Act or of the Acts hereby repealed, after the death of any annuitant on the continuance of whose life such annuity was payable, or after the death of either annuitant, in case the annuity shall have been granted upon the joint continuance of the lives of two joint annuitants, and after and beyond the time on which such annuity ought wholly to cease in consequence of the death of such annuitant, by virtue of this Act or the Acts hereby repealed, knowing such annuitant to be dead, and contrary to the true intent and meaning of this Act, every person so offending shall forfeit to her Majesty, her heirs and successors, treble the amount of all money so received.

Recovery and application of penalties.

34. All pecuniary penalties and forfeitures imposed by this Act shall be recoverable (if incurred in England) in the name of her Majesty's Attorney

General, on the part of her Majesty, by information in the Court of Exchequer at Westminster, or (if incurred in Ireland) in the name of her Majesty's Attorney General in the Court of Exchequer at Dublin, or (if incurred in Scotland) in the name of her Majesty's Advocate General in the Court of Exchequer in Edinburgh; and such penalty and forfeiture shall be payable and paid to the said Commissioners, and shall go and belong to and shall become part of the Consolidated Fund; and it shall be lawful for the Commissioners for the Reduction of the National Debt to cause such reward as they shall think fit, not exceeding one moiety of any such penalty or forfeiture so recovered, after deducting all charges and expenses incurred in recovering the same, to be paid to any person or persons who shall appear to them to be entitled thereto as informer or informers in respect of such penalty or forfeiture so recovered.

Power to cause reward to be paid to informers.

35. The Lord High Treasurer or the Commissioners of her Majesty's Treasury may order and direct to be issued and paid, out of the fund upon which the establishment of the Commissioners for the Reduction of the National Debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks, and for any incidental expenses incurred by the said Commissioners for the Reduction of the National Debt in carrying into execution this Act, in such manner as the said Lord High Treasurer or Commissioners of the Treasury shall from time to time think fit and reasonable.

Provision for defraying expenses attending the execution of this Act.

36. There shall be prepared and annually laid before both Houses of Parliament on or before the twenty-fifth day of April in every year, if Parliament shall be then sitting, and if Parliament shall

Account to be laid annually before Parliament of annuities granted, and of money

paid for annuities.

not be then sitting, then within fourteen days after the commencement of the then next session of Parliament, an account, made up by the Commissioners for the Reduction of the National Debt to the fifth day of January preceding, of the gross amount of all sums of money paid to the said Commissioners, and the gross amount of annuities for lives which shall have been granted for the same, and contracts for payment at death which may have been made, under the provisions of this Act, within the year ending on the fifth day of January as aforesaid.

Powers of attorney granted under recited Acts to be available under this Act.

37. All powers of attorney which shall have been granted for the purpose of receiving any annuity purchased under the said recited Acts or either of them, and which shall be in force on the tenth day of October one thousand eight hundred and fifty-three, shall continue of like validity with respect to any payment on account of such annuities to be thereafter made by the said Commissioners under the authority of this Act so long as such powers of attorney shall continue in force.

II.—27 & 28 *Vict. c.* 43.

AN ACT TO GRANT ADDITIONAL FACILITIES FOR THE PURCHASE OF SMALL GOVERNMENT ANNUITIES, AND FOR ASSURING PAYMENTS OF MONEY ON DEATH.

WHEREAS under the Act sixteenth and seventeenth Victoria, chapter forty-five, deferred annuities of small amounts can only be granted upon the condition that the full amount required to purchase such annuities shall be paid in one sum, or by annual payments during a course of years fixed at the time of purchase: And whereas under the said Act contracts for payment of a sum of money on death cannot be entered into except upon the condition that the party contracting for such payment on death shall at the same time purchase a deferred annuity depending upon his or her own life: And whereas it is expedient to amend the said Act: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows: 16 & 17 Vict. c. 45.

1. Deferred annuities, authorised to be granted by the second section of the said Act, may be granted upon the condition, to be fixed at the time of purchase, that the sum required under the said Act to purchase such annuity shall be payable in Deferred annuities may be granted if sum required be paid in smaller instalments.

smaller instalments and at shorter periods than are now fixed by the said Act.

Such annuities may be granted to extent of 50*l.*

2. Annuities authorised to be granted under the second section of the said Act may be granted in amounts exceeding the limit of thirty pounds fixed by the said Act, but no such annuity shall be granted to any one person to an amount exceeding fifty pounds per annum.

Portion of sect. 10 of recited Act repealed.

3. So much of the tenth section of the said Act as requires that a deferred annuity shall be purchased by any person contracting with the Commissioners for the Reduction of the National Debt for payment of a sum of money on death shall be and the same is hereby repealed.

Limit on age of persons insured.

4. No contract for a payment on death shall be entered into by or on behalf of any person under the age of sixteen or over the age of sixty years.

Limit of sum insured.

5. No contracts for payment to be made on the death of any one person under this and the said Act shall be for a greater amount in the whole than one hundred pounds, or of a less amount than twenty pounds.

Power to construct fresh tables for annuities and insurances.

6. Whereas by the sixteenth section of the said Act it is enacted, that the Commissioners of Her Majesty's Treasury may from time to time direct the Commissioners for the Reduction of the National Debt to use and adopt such tables as shall from time to time be authorised and approved of by the said Commissioners of the Treasury for the grant of annuities and for payment of sums of money to be secured at death under the provisions of the said Act: And whereas it is expedient that the fund to be formed by the receipt of sums on account of all such contracts effected under the said Act and this Act shall be adequate to meet all claims accruing and to accrue thereon, so as to

render certain the fulfilment of all engagements to persons contracting for such annuities or payments on death, or for any compositions or sums agreed to be granted upon the lapse of any contract, without entailing any charge in respect thereof, or in respect of costs and expenses on the Consolidated Fund of the United Kingdom: Be it enacted, therefore, that the said Commissioners of Her Majesty's Treasury shall cause tables to be constructed in accordance with the principles above recited, upon which annuities or payments on death shall be contracted for under the said Act and this Act, and the said tables shall be framed, first, for such contracts as shall provide for the consideration money in one sum; second, for such contracts as shall provide for the like payments in annual sums; and, third, for such contracts as shall provide for the like payments by more frequent instalments; and such tables, when the Commissioners of Her Majesty's Treasury have approved of the same, shall, together with a statement of the rules observed in constructing them, be laid before both Houses of Parliament for thirty days before they shall be acted upon; and if any address shall be presented to Her Majesty from either House of Parliament praying that such tables may be revoked and cancelled, such tables shall be revoked and cancelled accordingly; and thereupon the Commissioners of Her Majesty's Treasury shall order other tables to be framed for their approval in lieu of the tables so revoked and cancelled. The tables for payments on death shall be calculated, so far as the interest of money is concerned, at the rate of three *per centum per annum.*

This Act not to come in force

7. Until the tables made in pursuance of this Act can be legally acted on, this Act shall not

until tables can be legally acted on.

come into force so far as to enable any grant to be made of an insurance on the life of any person or any grant to be made of any annuity the consideration money for which is paid by instalments more frequent than annual instalments.

Provision in case of default by purchasers after five years payments.

8. In case any person who shall contract under the provisions of the said Act and of this Act for a payment to be made at death, after having paid the several premiums for a period of not less than five years, shall desire to surrender his policy, or shall make default in the payments stipulated to be made according to the contract, the Commissioners for the Reduction of the National Debt, at the option of the party beneficially interested in the contract, shall pay to such person such sum of money, not being less than one third of the premiums paid by him, as shall be fixed by the regulations authorised to be framed under the provisions of this Act, or shall grant to him such a paid-up policy of assurance or such an immediate or deferred life annuity, under the tables in force under the authority of the said Act or this Act, as shall be equivalent in value to the sum which under the provisions of this Act would be paid to him in money; but it shall also be lawful for the said Commissioners, if they think fit, to enter into contracts for payments to be made at death, on the condition that no portion of the premiums paid are to be returnable; and no premium shall be returned in pursuance of this section in respect of any contract so made.[1]

[1] It has been held by the barrister, that the option to receive the surrender value of an assurance under this section is such a power 'in or over or in respect of property' as is comprised in the divisible property of a bankrupt under s. 15 (4) of the Bankruptcy Act 1869, and as such vests in the trustee under s. 25 (5) of the

9. For the purposes of this Act and of the said Act, every person purchasing an annuity, or having purchased the same under the provisions of the said Act, or contracting for the payment of a sum of money on his or her death, shall be considered as a depositor in a savings bank;[1] and all the provisions of the Acts now in force relating to savings banks, in as far as the same can or may be applicable, shall apply to the parties having purchased or purchasing such annuities, or contracting for the payment of money on death, and to the rules and regulations to be made for carrying the same into effect: Provided always, that nothing in this Act or the said Act contained shall be held to exempt any person or persons entering into a contract for a payment on death, or any person or persons becoming beneficially interested therein, from probate or any stamp duty payable by law.

Purchasers liable to provisions of existing Savings Banks Acts.

10. If payment of any sum of money due on a contract made under this Act for payment of

Jurisdiction of County Court.

same Act, the like powers vesting also in the trustee under a liquidation order s. 125 (7); and that therefore the trustee can solely exercise such option, and that his receipt under s. 25 (7) of the same Act will be a sufficient discharge to the Post Office.

[1] Under the s. 23 of the Divided Parishes and Poor Law Amendment Act 1876 (39 & 40 Vict. c. 61), where a pauper is entitled to any annuity, the trustee or other person bound to make payment of the same may from time to time pay to the board of guardians the cost incurred in the relief of such pauper since the last instalment; such payment being a legal discharge to such trustee or other person; and where any trustee declines to make any payment, the guardians may apply to the justices in petty sessions, who, if satisfied that it is right under all the circumstances to do so, may make an order for payment of the requisite amounts from time to time as the liability in respect of the relief arises; but it is provided that the clause 'shall not have effect unless and until the guardians or their relieving officer shall have declared the relief to be given on loan.' This enactment appears to apply to savings bank annuities.

money on death shall be refused by the Commissioners for the Reduction of the National Debt, the party beneficially interested therein may, if he think fit, instead of proceeding to arbitration in manner provided by the said Savings Banks Acts, take proceedings against the said Commissioners for the Reduction of the National Debt in the county court of the district in which such contract was entered into, or with the consent of the said Commissioners in any other county court in the jurisdiction of which such party may be resident, for the recovery of the amount;[1] and any county court in which proceedings under this section may be taken shall have jurisdiction in the matter, and the decision thereupon shall be final and binding on all parties to all intents and purposes, and without any appeal; and for the purposes of this Act the contract shall be deemed to have been entered into at the place where the party insured resided at the time at which the contract bears date. For the purpose of arbitration under the said Acts relating to savings banks, the said Commissioners shall when necessary be deemed to be in the place of the trustees of the savings banks. In Scotland the sheriff court, and in Ireland the civil bills court of the chairman of quarter sessions, shall have the same jurisdiction as is given by this section to the county court.

Jurisdiction of Courts in Scotland and Ireland.

Assignment of contracts.

11. Any person who shall contract under the

[1] Section 2 of the Savings Bank Barrister Act 1876 enacts that purchasers of annuities and persons contracting for payments of money on death are to be considered depositors within the meaning of the Act. They are therefore brought within the jurisdiction of the Solicitor to the Treasury and the Registrar of Friendly Societies, though as regards disputes they have the alternative of a recourse to the County Court as under this section. Cf. Introduction.

provisions of this Act and of the said Act for a payment to be made at death may, after having duly paid for five years or upwards the premiums thereon, assign his right and interest therein, upon payment of such fee and on such conditions as shall be fixed by regulations made under the authority of this Act. The assignee of such contract shall take, both at law and in equity, all such right and interest therein, including the right to sue, as was possessed by the assignor, but no other or greater right or interest.

Commissioners not to be affected by notice of trusts.

12. The Commissioners shall not, except in so far as is provided by the said Act, receive or be affected by notice, however given, of any trust affecting any annuity, or any contract for payment on death, made in pursuance of this and the said Act.

Commissioners for Reduction of National Debt to regulate instalments.

13. The Commissioners for the Reduction of the National Debt, with the consent of the Commissioners of Her Majesty's Treasury, may make regulations for fixing the amounts of the several instalments and premiums, and the periods at which such instalments and premiums shall be paid, in respect of the purchase money payable upon all contracts which shall be made under the authority of this and the said Act, but so as not to affect any contract previously made; and no sum in respect of instalments or premiums payable at any one time shall be of a less amount than two shillings.

Power to Postmaster General, with consent of Treasury, to authorise his officers to receive monies.

14. The Postmaster General, with the consent of the Commissioners of Her Majesty's Treasury, may, if he shall think fit, authorise and direct such of his officers as he may select to receive such monies as may become payable upon contracts entered into under this and the said Act for in-

vestment with the Commissioners for the Reduction of the National Debt, and to pay on behalf of the said Commissioners all such monies as may become due and payable under such contracts.

Power to Commissioners to give authority to trustees of savings banks.

15. The Commissioners for the Reduction of the National Debt may, in like manner, with the consent of the said Commissioners of Her Majesty's Treasury, if they shall think fit, authorise the trustees of savings banks established under the Act of the twenty-sixth and twenty-seventh Victoria, chapter eighty-seven, with consent of such trustees, to receive such monies as may become payable upon contracts entered into under this Act for remittance to the Commissioners for the Reduction of the National Debt, and to pay on behalf of the said Commissioners all such monies as may become due and payable under such contracts, and may make to the said trustees a reasonable allowance for their expenses, in respect of such transactions, out of the monies so received and paid over by the said trustees to the said Commissioners.

Power to Postmaster General, with consent of Treasury, to make regulations for carrying out provisions of this Act.

16. The Postmaster General, with the consent of the Commissioners of Her Majesty's Treasury, may make all regulations for carrying out the provisions of this Act, in so far as his department is concerned; and the Commissioners for the Reduction of the National Debt, with the consent of the said Commissioners of Her Majesty's Treasury, may make regulations[1] for carrying out the pro-

[1] The following are the principal Rules of the Government Insurance and Annuity Office :—

1. The Postmaster General is empowered, under the Act 27 & 28 Vict. cap. 43, to insure the lives of persons of either sex, between the ages of 16 and 60, for not less than 20*l.* or more than 100*l.* He is also empowered under the same Act to grant immediate or deferred annuities of not more than 50*l.* on the lives of persons of either sex, and of the age of 10 years and upwards. The

visions of this Act so far as the trustees of savings banks are concerned, and also for the execution of

persons whose lives are insured, or to whom annuities are granted by the Postmaster General, have direct Government security for the payment of the money at the proper time.

2. Certain post offices (the names of which may be obtained at any post office) have been opened for the receipt of proposals for the insurance of lives and the purchase of annuities, and forms of proposal, with full instructions for filling up and delivering these forms, may be obtained at these post offices.

3. Tables of the premiums to be charged for the insurance of lives; for the grant of immediate annuities; for the grant of deferred annuities or deferred monthly allowances, without return of purchase money, and for the grant of deferred annuities or deferred monthly allowances, with return of purchase money, have been printed, and may be seen at the post offices which have been opened for the receipt of proposals. These tables may also be obtained of Messrs. Eyre and Spottiswoode, London. The price of the tables for the insurance of lives and the grant of annuities without return of purchase money is 3½*d.* The price of the tables for the grant of annuities with return of purchase money is 2*d.* If sent by post, 5*d.* is charged in the one case, and 3*d.* in the other.

4. The premiums to be charged for the insurance of lives vary with the ages of the persons whose lives are to be insured, and with the mode in which they are to be paid.

The life of a man or woman in his or her 30th year may be insured for 100*l.*—

	£	s.	d.
By a single payment of	43	3	7
or,			
By an annual payment, throughout life, of	2	6	7
By a quarterly payment, throughout life, of	0	13	0
or,			
By a monthly payment, throughout life, of	0	4	4
or,			
By a fortnightly payment, throughout life, of	0	2	2
or,			
By an annual payment, until the insured person reaches the age of 60, of . . .	2	13	10
or,			
By a quarterly payment, until the insured person reaches the age of 60, of . .	0	15	0
or,			

contracts on behalf of the said Commissioners, by any officer or officers appointed by the said Com-

	£	s.	d.
By a monthly payment, until the insured person reaches the age of 60, of . .	0	5	0
or,			
By a fortnightly payment of . . .	0	2	6

Smaller sums may be insured by proportionate payments, but no one of the periodical payments must be of less amount than 2*s*.

At 30 years of age (next birthday), 2*s*. per month will secure £46 1*s*. 10*d*. at death.

5. No one life can be insured for less than £20 in the whole; but when a life has been insured for £20, further insurances may be effected on the same life from time to time, for any amount, until the whole sum for which it is insured amounts to £100.

6. If, after having duly made his payments for a period of five years, the insured person shall be unable to continue, or shall desire to discontinue, such payments, a portion of the premiums paid by him, which portion will in no case be less than one-third of the whole sum paid by him, will be returned to him.

7. The sums to be charged for the purchase of immediate annuities will vary with the age and sex of the person on whose life the annuity is to depend:—

	£	s.	d.
A man aged 65 can purchase an immediate annuity, of £10, payable half-yearly, for	88	18	4
A woman of the same age can purchase a like annuity for	103	16	8
A man aged 70 can purchase an immediate annuity of £10, payable half-yearly, for	73	3	4
A woman of the same age can purchase a like annuity for	84	19	2

8. The sums to be charged for the purchase of deferred annuities, or deferred monthly allowances, will vary with the age and sex of the person on whose life the annuity or monthly allowance is to depend; and with the length of the term for which the annuity is deferred (or, in other words, with the number of years which are to pass before the commencement of the annuity), and with the conditions of the contract as to the mode of purchase, mode of payment, and return or non-return of purchase money.

When the condition of the contract is to be that no part of the purchase money shall, in any event, be returned—

missioners for that purpose, or appointed by the Postmaster General, with the consent of the said

	£	s.	d.
A Man aged 30 may purchase a Deferred Annuity of £10, to commence on his reaching the age of 60, and to be payable half-yearly, either by an immediate payment of	24	3	4
or,			
By an annual payment, until he reaches the age of 60, of	1	8	4
A Woman of like age may purchase a like Annuity by an immediate payment of	32	8	4
or,			
An annual payment, up to 60, of . .	1	17	6;

and a Man aged 30 may purchase a Deferred Allowance of £2 7*s.* 3*d.* per month, to commence when he reaches the age of 60, by a payment until he reaches that age of 8*s.* per month; and a woman of like age may, by a like payment of 8*s.* per month, purchase a Deferred Allowance of £1 16*s.* 7*d.*, to commence when she reaches the age of 60.

When the condition of the contract is to be that, in the event of the death of the person on whose life the Annuity or Allowance is to depend before the commencement of the Annuity or Allowance, the purchase money is to be returned to his representatives, and that if the purchaser at any time before the commencement of the Annuity or Allowance is unable to continue, or wishes to discontinue, the purchase, the purchase money shall be returned to him; the price charged will be higher than when no such condition is made.

	£	s.	d.
Under this condition, a Man aged 30 may purchase a Deferred Annuity of £10, to commence when he attains to 60 years of age, and to be payable half-yearly, either by an immediate payment of .	40	9	2
or,			
By an annual payment, until he attains to 60 years, of	2	0	10
And a Woman of like age may purchase a like Annuity, either by an immediate payment of	47	0	10
or,			
By an annual payment of	2	7	6;

and a Man aged 30 may purchase an Allowance of £1 14*s.* 2*d.* per month, to commence when he attains the age of 60 years, by a monthly payment of 8*s.*; and a Woman of like age, by a like payment, until she reaches the age of

Commissioners; and all regulations made by the said Postmaster General and the said Commissioners

60 years, may purchase an Allowance of £1 9*s.* 4*d.* per month.

9. The Annuity or Monthly Allowance granted on any one life must not exceed £50 per annum, or £4 3*s.* 4*d.* per month; but purchasers need not purchase the whole amount of such Annuity or Allowance at one time. They may begin by purchasing such part as they can afford to purchase, and go on increasing their purchases from time to time as their circumstances will permit.

10. Husband and Wife may each be insured to the full amount of £100, and may each purchase an Annuity of £50, or a Monthly Allowance of £4 3*s.* 4*d.* Any two persons may purchase an Annuity on their joint lives, with or without continuance of the Annuity to the survivor.

11. Persons contracting for the Insurance of their Lives, or for the purchase of Annuities or Monthly Allowances, will be allowed to pay their periodical premiums or instalments of purchase money at such of the Post Offices which have been or may hereafter be opened for the purpose, as will suit them best.

12. Persons proposing to effect Insurances on their Lives, or to purchase Deferred Monthly Allowances, must provide at their own cost such certificates of birth or baptism, or other evidence of age, as shall be required from them, but will not be required to pay any fee for medical examination, or to pay the cost of any inquiry which the Postmaster-General may think fit to make with regard to their health, habits, age, and occupation, or to pay any fee for the issue of any contracts which may be made in accordance with their proposals, or to pay any postage for the transmission of their proposals, or for the transmission of any correspondence arising out of such proposals between them and the Postmaster-General, inasmuch as a provision for all such costs and charges is included in the premiums which they will be required to pay, in accordance with the Tables framed for the purpose, for the Insurance of their Lives or the purchase of Deferred Monthly Allowances.

Persons proposing to purchase Immediate or Deferred Annuities, payable half-yearly, must provide at their own cost such certificates of birth or baptism, or other evidence of age as shall be required of them; and, inasmuch as the premiums fixed by the Tables framed for the grant of such Annuities do not include any provision for costs and charges, must pay, at the time of purchase, a fee of 1*s.* for every £1 of Annuity purchased.

for the Reduction of the National Debt respectively shall be binding to the same extent as if such regulations formed part of this Act; and copies of all regulations issued under the authority of this Act shall be laid before both Houses of Parliament.

Accounts of Postmaster General and Commissioners to be submitted to Commissioners for auditing Public Accounts.

17. The annual accounts of the Postmaster General and of the Commissioners for the Reduction of the National Debt to the thirty-first day of December in each year, in respect to all monies received or invested under the authority of this Act, shall annually prior to the thirty-first day of March in each year, be submitted by the said Postmaster General and by the said Commissioners for examination and audit to the Commissioners for auditing Public Accounts.

APPENDICES.

APPENDIX A.

Crisp v. *Sir Henry Edward Bunbury, Bart., and others.*
(Reported 8 Bing. 394; M. & Scott, 646.)

Since 9 Geo. IV. c. 92 an action does not lie against the trustees of a benefit society [savings bank]. In case of disputes the only mode of proceeding is by arbitration.

THIS was an action of assumpsit against the defendants, as trustees of the Mildenhall Bank for Savings, for monies had and received by them to the use of the plaintiff. At the trial before Tindal, C.J., Middlesex Sittings, 1800, a verdict was found for the plaintiff for 44*l.*, subject to the opinion of the Court on the following case:—

In April 1818 a savings bank was established at Mildenhall, in the county of Suffolk, under the provisions of 57 Geo. III. c. 130. Rules were drawn up, which in the same year were duly enrolled with the Clerk of the Peace and afterwards acted upon. The defendants, with others since dead, were duly appointed trustees, and acted as such; but William Newton, who is still living, though not made a defendant, was also a trustee and acted. Sir Henry Edward Bunbury, one of the defendants, who resided at Mildenhall, was also duly appointed and acted as treasurer; and Mr. Bassett, another of the defendants, as manager. One William Gill was duly appointed clerk in the year 1818, and continued to act in that capacity until 1825, when it was discovered that he had embezzled a considerable sum of money, the amount of deposits which had been received by him. He absconded, and was prosecuted by the trustees to conviction and transported. Bassett from time to time received deposits of the plaintiff, and duly signed his book, in which such deposits were regularly entered; but he never saw Crisp's account in the possession of the clerk, or attended at the clerk's

office, after March 1819, the clerk having told him that he would give him notice when it was necessary for him to attend. On Gill's absconding Bassett went to his house and there found two cash account books, one a false and the other a true one, in each of which the plaintiff's account with the bank was entered, from which it appeared that on the balance in the hands of the clerk the plaintiff's claim in June 1824 was 35*l.* 8*s.* 3¼*d.* The entry of the account in both books was precisely similar, except that in the false book the word 'paid' was added at the end of the account, importing that the whole balance had been paid to the depositor. It was admitted that the receipts and payments on account of deposits were as appeared by the accounts, and that the plaintiff had not received the balance of the account. A letter was, on June 27, 1829, sent by the plaintiff's attorney to the defendants, to W. Newton, and various others, which, after alluding to the embezzlement and conviction of the clerk, and expressing a hope that an amicable adjustment of the claims of the several depositors might be effected, gave notice to the defendants and others that the plaintiff had appointed Mr. C. Austin, of the Temple, barrister, to be his referee, and called on the defendants within a month to appoint a referee on their behalf, both in the matter of Crisp and the other depositors. Sir H. Bunbury was then abroad, and did not return to England till after the action was brought. No arbitrator had ever been appointed by the managers or trustees, they altogether denying their liability, it being admitted that they had no funds in hand to satisfy the plaintiff's claim. It was admitted that general meetings to receive the reports and to examine and audit all the accounts of the establishment were not held pursuant to the first rule of the institution. The plaintiff went, about the time Gill absconded, to his house for the purpose of making a formal demand, but he found the premises shut up and that Gill had absconded.

Among the rules of the society were the following:—First.—'The affairs of the bank shall be conducted by not less than six trustees, twenty managers, and a treasurer; none of whom shall derive any benefit from the deposits or receive any remuneration for services. Every trustee will be considered as an honorary manager. General meetings shall be held on the first Friday in October, January, April, and July, to receive the reports, and to examine and audit all accounts of the establishment. The managers shall also have the power of filling up

vacancies, and of adding to the numbers of trustees and of their own body. Upon the requisition of three managers a special meeting may be called, upon giving fourteen days' previous notice. At every general meeting one trustee and four managers shall be competent to act.' Seventeenth.—'Any matter in dispute between this institution and any person acting under the same and any depositor therein, or any executor, administrator, or next of kin of any deceased depositor, or any person claiming to be such executor, administrator, or next of kin, shall be referred to the arbitration of two persons, one to be named by the managers, and the other by the claimant; and in case the two persons so named shall not agree they shall forthwith nominate an umpire, and the decision and award of such referees and umpire shall be final and binding upon both parties.' And by 9 Geo. IV. c. 92, s. 45, it is enacted, 'That in case any dispute shall arise between any such institution or any person or persons acting under them, or any individual depositor, then the matter so in dispute shall be referred to the arbitration of two indifferent persons to be chosen and appointed in the manner therein pointed out; and in case of their not agreeing then to the barrister-at-law to be appointed by the Commissioners, as directed by the Act; and whatever award shall be made by the said arbitrators or the said barrister shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal.'

The case was signed in Hilary Term by Storks, Serjeant, for the plaintiff, and Taddy, Serjeant, for the defendants, who took several objections to the plaintiff's recovery; in particular that the defendants as honorary trustees were not responsible for embezzlement by the clerk of the society, and that at all events the plaintiff's remedy was not by action but by arbitration. The decision of the Court turns on the latter ground alone; as to which it was contended, on the part of the plaintiff, that the statute 9 Geo. IV. c. 92, s. 45, is directory only with respect to arbitration, not imperative; that parties cannot by agreement oust the Courts of Law of their jurisdiction, nor can a statute effect this except by express words or necessary implication (Cates *v.* Knight, 3 T.R. p. 442), and that at all events, the defendants having refused to proceed to arbitration, could not now object that the plaintiff had proceeded at law. On the part of defendants it was argued that though parties cannot by agreement oust the jurisdiction of the Courts of Law, it may be ousted

by statute, and that the statute 9 Geo. IV. c. 92, s. 44, is imperative in this respect, the object of the Legislature being to protect the funds of poor contributors from most expensive litigation.

Cur. adv. vult.

Tindal, C.J.—This is an action of assumpsit against the defendants, as trustees of the Mildenhall Bank for Savings, and is brought for money had and received by them to the use of the plaintiff. This bank was established in the year 1818, under the rules and regulations set out in the case, and from that time until the passing of the statute 9 Geo. IV. c. 92 was governed by the various provisions contained in the statute 57 Geo. III. c. 130. But that statute, with certain other Acts which had been passed for amending it, was repealed by 9 Geo. IV. c. 92, with an exception that nothing in that Act contained should invalidate or annul any payments, agreements, or appointments made or proceedings had, or any instruments executed under the authority of any of the repealed Acts; and by the last section of 9 Geo. IV. that statute is declared 'to extend to all savings banks established and hereafter to be established in England and Ireland.' It appears to us, therefore, that the only law which governed and regulated the rights of the parties to this action at the time the action was brought is to be derived from the only statute then in existence in relation to the subject matter of the action, viz., the 9th Geo. IV. Amongst the objections that have been urged by the defendants against the right to maintain this action one is, that by the 45th section of the last statute the Legislature has provided that in case any dispute shall arise between any such institution, or any person or persons acting under them, and any individual depositor therein, the matter so in dispute shall be referred to the arbitration of two indifferent persons, to be chosen and appointed in the manner therein pointed out; and in case of their not agreeing then to the barrister at law to be appointed by the Commissioners, as directed by the Act; and whatever award shall be made by the said arbitrators, or the said barrister, shall be binding and conclusive on all parties, and shall be final to all intents and purposes without any appeal; and it is contended on the part of the defendants that this enactment is imperative upon the plaintiff, taking away the jurisdiction of the Courts at Common Law, and leaving the party who com-

plains no other mode of determining his claim than that which is pointed out and provided by the Act. It is not denied on the part of the plaintiff that the present case falls within the description of those contained in the 45th section; indeed, it would be impossible to argue that the present is not a dispute between persons acting under the institution and an individual depositor, but it is contended by the plaintiff that the jurisdiction of the Courts of Common Law is not ousted by any words to be found in this section; and that the utmost which the section contemplates is to create a concurrent and not an exclusive jurisdiction in the arbitrators or barrister. But we are of opinion that, both with reference to the words of the statute and the object which it had in view, the plaintiff is barred from maintaining the present action in a court of law, and must pursue the remedy provided by the statute. It is undoubtedly true that the jurisdiction of the Superior Courts of Westminster is not to be ousted except by express words or by necessary implication (Cates *v.* Knight), yet, where the object and intent of the statute manifestly requires it, words that appear to be *permissive* only shall be construed as *obligatory*, and shall have the effect of ousting the Courts of their jurisdiction, as in the case last referred to, when a clause enacted that it 'shall and *may be lawful* for a justice of the peace to hear and determine offences against the Act that subject the offender to penalties not amounting to 50*l.*,' with a power to justices to mitigate the penalties; whilst the same Act directed that all penalties which amount to 50*l.* or more *shall* be sued for in Her Majesty's Courts at Westminster. It was held that by necessary implication the Courts above were ousted of their jurisdiction in the case of penalties not amounting to 50*l.* Now, in this case the Legislature has enacted that disputes of the description of the present *shall* be referred—words which in their natural force denote an obligation, not a permission only; and unless these words are construed to be compulsory on the plaintiff they mean nothing. If they are not compulsory on the plaintiff, neither can they be so upon any principle of fair construction upon the defendants. And if recourse to arbitration is not intended, except both parties desire to adopt it, then indeed the Act is made a dead letter; for it would be competent for both parties to refer the dispute to arbitration if they both agreed upon it, without the intervention of the statute. In order, therefore, to give these words

of the statute any force or operation the word *shall* must be considered as obligatory; that is, that the matter in dispute shall of necessity be referred to arbitration, and not be determined in any of the Courts of Westminster Hall. But, looking at the object and intention of the Legislature, we think it clear that the remedy by action is taken away, and that by arbitration substituted in its place. These institutions were intended to comprehend a very large number of depositors, chiefly from the lower walks of life, many of them contributing very small sums, and claiming very small profits by the addition of interest. On the other hand, the trustees and managers are uncertain in point of number. To allow, therefore, action at law to be maintainable by each depositor against the trustees upon the occasion of every dispute with the institution, either as to the amount of the balance due or the interest claimed by him, would be in effect to cause the ruin both of the depositors and the institution, by casting the costs of an action in the Superior Courts at Westminster upon the losing party. No person would fill the gratuitous office of a trustee or a manager, if he was exposed to the hazard of suits at law at once so expensive and so numerous. No depositor would be able to enforce his just rights if he must sue in the Superior Courts, at the hazard of being defeated, with heavy costs, if he sued more of the trustees than he might be able to prove liable, or subject to have his suit abated, if he sued too few. It is evident, therefore, that the Legislature contemplated the cheap, simple, speedy, and equitable adjustment of all disputes by a reference in the mode pointed out in the Act, instead of a more expensive, dilatory, and uncertain remedy by action at law; and we think we should defeat that very serviceable object, serviceable alike to the depositors and to the institution, unless we construe the words used as words which import an obligation to refer, and which take away the right to sue in the Superior Courts. In this view of the case it would be improper to give an opinion on the other points which were made in argument, as we have no jurisdiction: and we can only express our surprise and regret that the defendants, who set up this as a ground of defence, did not act upon it when the plaintiff appointed an arbitrator on his part. At present, however, there must be judgment for the defendants.

APPENDIX B.

Lynch v. *Fitzgerald.*[1]

(Extracted from the Report of the Select Committee on Savings Banks, &c., &c., August 1, 1853.)

An action of debt was brought by John Lynch, a depositor in the Tralee Savings Bank, against a Mr. William Fitzgerald, one of the trustees and managers of the bank, on an award by Mr. Tidd Pratt, the arbitrator appointed under 7 & 8 Victoria.

The special count of the declaration stated the award, which was in substance as follows: That the plaintiff John Lynch had deposited in the Tralee Savings Bank a sum of 27*l.* 9*s.*, and that afterwards a dispute, controversy, and difference having arisen between the plaintiff and the trustees and the managers of the bank concerning the money so deposited by the plaintiff in the savings bank, which dispute, controversy, and difference was in writing, pursuant to the statute, referred to the award, order, arbitrament, final end, and determination of John Tidd Pratt, the barrister appointed by the statute of George IV.; and that John Tidd Pratt, having deliberately and at large heard, read, and duly and maturely examined, weighed, and considered all and singular the allegations, vouchers, proof, and evidences brought and produced before him by and on the part and behalf of the parties respecting such matters in dispute and difference between them, so referred to him pursuant to the statute, he, on June 19, 1848, made and published his award and arbitrament and determination in writing, and did thereby award and determine that the defendant, who at the time of the arising of the dispute and of the reference and award was a trustee of the said bank, should pay the plaintiff on July 31 then following the sum of 27*l.* 9*s.* in full of all claims and demands.

To this action Mr. Fitzgerald put in several pleas, the principal of which denied altogether his liability on foot of this award. Besides this he put in several special pleas, and amongst them one denying his being guilty of wilful default. To this the plaintiff replied that he was guilty of default, and on this replication a demurrer was made raising the legality of that reply; the counsel for the defendant saying that that was

[1] *Vide* also Brunker's Digest of Irish Cases (Common Law and Admiralty), 1969.

no question to be raised on the issue; and he also put in a further plea that there was no declaration in writing, under 7 & 8 Victoria, given in by the defendant stating that he would be responsible for any deficiency in the fund, which is required by the Act; and that also was demurred to in law; and there was a further plea of no notice being given by Mr. Pratt of his intention to proceed with the arbitration.

On these three several issues a legal question was raised. On the first issue, viz., that, denying all responsibility, the parties went to trial, the three legal issues meantime by direction of the Court standing over until the decision on the point of fact had been come to and examined by a jury. The case came on for trial at the Spring Assizes of 1849 for the county of Kerry, before Judge Ball, when another issue was joined, in which the defendant denied that he was a trustee, and also stated that he did not refer the dispute to Mr. Tidd Pratt. The award of Mr. Pratt was proved at the trial, and he himself was examined. The Judge directed a verdict for the defendant on the issue whether he had referred in writing the matter in dispute to Mr. Tidd Pratt, thereby showing that there was no evidence that there had been any reference in writing to Mr. Tidd Pratt; and he directed a verdict for the plaintiff on the general issue of the defendant's non-liability, thereby holding that there was evidence to go to the jury that the defendant Mr. Fitzgerald was liable on the award made by Mr. Pratt. It was also found that Mr. Fitzgerald was a trustee of the bank. The matter then stood over till Michaelmas Term following, when Mr. Fitzgerald's counsel obtained an order that the verdict found for the plaintiff should be set aside and turned into a verdict for the defendant, on the ground that there was no legal foundation for the action; that in point of fact the award was unsound in certain particulars.

The argument took place in Michaelmas Term 1849, towards the latter end of the term, and was heard before the Lord Chief Justice, Mr. Justice Crompton, Mr. Justice Perrin, and Mr. Justice Moore. At the conclusion of that argument the Chief Justice stated that, as questions of very considerable difficulty arose upon the construction of the Act of Parliament on which the whole question was raised, and as there was still the legal question remaining on the special pleas, in which similar questions were involved, they would not proceed further in the matter until the legal question had been argued, unless the

parties chose to put the matter into a certain form which the Court suggested, which they might do on the consent of both parties, and bring it in a much simpler and plainer manner before the Court. However, the parties did not choose to consent to that, and subsequently, in the following Hilary Term, 1850, the matter again came before two members of the Court, the Chief Justice and Judge Perrin, on the legal question, and was argued before them on much the same grounds as on the previous occasions.

In Easter term 1850 Chief Justice Blackburne delivered the unanimous judgment of the Court, which was as follows:—

'This is an action of debt on an account brought by the plaintiff, a depositor of the Tralee Savings Bank, against the defendant, one of the trustees of that bank.

'The declaration states the award as it appeared in evidence at the trial. To this there are several pleas; to three of them, namely, the second, third, and sixth pleas, there were replications to which the defendant demurred, and these demurrers were argued before my brother Perrin and myself. The first plea was *nil debet*; the fourth plea was that the defendant was not a trustee; and the fifth that the defendant did not refer in writing to Mr. Tidd Pratt. Issue having been joined on these three pleas, there was a finding for the plaintiff on the first and fourth, and for the defendant on the fifth.

'Pursuant to leave reserved at the trial, the defendant moved to enter a verdict for him on the plea of *nil debet*.

'That motion has stood over since Michaelmas Term, in order that the demurrer might be argued and the whole case disposed of at the same time. The opinion that I am about to express, as far as it relates to the demurrer, is only to be considered as that of my brother Perrin and myself; but as regards the matter of the motion for a new trial, which was heard by all the members of the Court, we all concur in the decision and judgment I am about to deliver.

'In considering the different questions which have been so largely discussed, it does not seem to me necessary to advert in any detail to the provisions of the different statutes which relate to those institutions. The right of depositors to have their property duly invested and taken care of and repaid, with interest, admits of no doubt on the one hand, nor on the other is there any difficulty in discovering the duties which devolve on the persons who voluntarily become trustees, bind themselves

to discharge those duties, and incur personal responsibility for the losses that may arise from their wilful neglect or default. The Legislature, by a series of elaborate enactments, has provided for the rights and security of depositors, and prescribed the rules which the trustees are bound to observe, and it is perfectly clear and certain that a remedy was intended to be given to the depositors in all cases of disputes and differences between them and the trustees. Under the Act of George IV. c. 92 this was by arbitrators of the nomination of the parties, with the barrister mentioned in the Act as umpire, in case the arbitrators disagreed. That Act describes the dispute to be referred as one with the institution; a word that, I think, is plainly expounded by the 7 & 8 Vict. c. 83, s. 14, to mean the trustees and managers of the bank. This section enacts that if any dispute shall arise between the trustees and any individual depositor, then and in every such case the matter in dispute shall be referred in writing to the barrister, who shall have power to proceed *ex parte*, on notice in writing to the trustees or managers left or sent by the said barrister to the office of the institution; and that whatever award, order, or determination shall be made by him shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal. The inadequacy of the powers and means to exercise the ample jurisdiction which this section confers on the arbitrators has been relied on as an argument that it is limited to claims made merely against the bank as an institution, and does not warrant the arbitrator to decide on the defaults or personal responsibility of the trustees. If we are to adopt this reasoning, I think we should deprive this clause of all its real substance and value, an enactment which has been the subject of deliberate consideration and adoption. To me it seems clear that its provisions were deemed and intended to be adequate to enable the arbitrator in all cases of dispute between depositors and those who had acquired their rights, and the trustees, to do complete justice in the same manner and to the same extent as might and could have been done by the ordinary tribunals of the land, if their jurisdiction had not been superseded and this tribunal appointed in their place. But were the means and power of the arbitrator ever so deficient and inadequate, either to investigate facts or give effect to his decisions they would form no reason for not carrying into effect the express provisions of this section as far as may be practicable, or for adopting a

construction of it that would render it nugatory. For my part I cannot doubt that it was intended, by means of a special tribunal and the award of a legally constituted judge holding an exclusive jurisdiction, to supply an effectual and complete remedy in all cases of disputes of every kind and character respecting the rights and liabilities created by the Act between the trustees and the persons described in its 14th section. The case of Crisp v. Bunbury, on the authority of which I decided the case of Cook v. Lord Courtown, establishes the proposition that the jurisdiction of the Superior Courts is ousted in all cases coming within the arbitration clause in the first Act, and as a consequence that the barrister who has been substituted by the second Act for arbitrators under the first has exclusive cognisance of all such cases. If, then, the remedy of the aggrieved parties can only be had through his award, the question is, does his authority extend to and comprise the most simple of all cases, which is the case before us, that of a claim by a depositor to be repaid his deposit and interest? No doubt it does. The claim being made on the trustees, and not complied with, there is at once, in terms and substance, a dispute between the depositor and the trustees; a dispute giving a right of suit or action, not to be decided by a court of law or equity, but by the Parliamentary arbitrator. If he is to decide it he must have power, as necessarily incident to his jurisdiction, to inquire into and decide on the amount of the debt of the depositor. When this is done he must then inquire and ascertain whether there be funds forthcoming to pay the debt; if he finds there are not, is he to stop and go no further? I think decidedly not: he must proceed, and inquire what has become of the fund—is it in the hands of the trustees? And if not, has it been lost by causes for which no one is responsible; or has it been lost by the wilful neglect and default of the trustees? It is by this process of inquiry, and this only, that any remedy can be worked out. Whatever may ultimately be the state of individual liability, the state of the fund, its sufficiency or deficiency, and the causes of it, are the indispensable preliminary subjects of inquiry. The deficiency and its causes and the persons who have caused it being inquired into and ascertained, the question again recurs, is the arbitrator hereupon to stop at this stage and close his inquiry? Is his duty at an end, and are his powers exhausted? Some award he is bound to make; and if he is, it must be such award as a court of competent jurisdiction could and would

have made upon the facts disclosed by the inquiry. That inquiry I conceive to be the obvious and necessary consequence of the mere claim by a depositor, that claim, in its nature, being based on his right to have the accounts of the bank investigated, and its funds ascertained and made available for his payment. Let me suppose the case of the arbitrator's finding that a portion of the fund, instead of being invested as the Act orders, has been retained by and is actually in the hands of the trustees—can the arbitrator make no award against them? Would any court of competent jurisdiction permit them to retain it, or have any difficulty in making it available by a decision against the trustees to pay the plaintiff's demand according to his right? This admits of no answer but one: it would be the plain duty of the Court to pronounce the judgment that justice required. But put the case, not of money in the hands of the trustees, but of money lost by their wilful neglect or default; for this they are just as responsible in law as if it were money in their own hands; and being so, there are no distinctions or degrees between their responsibility in the two cases; the tribunal to which they are amenable must apply the same rule to both, and make the same decision in both. If there be not, as there is not, the least difficulty in seeing what that rule and that decision would be, if the case were before the proper and ordinary tribunal, my opinion is that the arbitrator must act as such a tribunal would be bound to act. But I must here guard myself against the inference that in the case of a defaulting trustee the arbitrator can at once and *per saltum* make an award that he shall pay the depositor complaining. The fact is not so. If a part of the fund is lost or deficient, the amount of the deficiency is to be regarded as so much of the general property of the bank, which is the common property of all the proprietors. The money subtracted should therefore be replaced for their common benefit, or held to be the money of all; and though I think it is competent to the arbitrator after a certain process and investigation to make a personal decree for a depositor against one or more of the trustees, it is not possible to do so on the mere ground that the trustee is a defaulter. Before this can be done the arbitrator must ascertain, as a court of equity would do, by taking proper accounts, the amount of the whole available funds, the amount of their deficiency, the amount of the dividend payable to the plaintiff, and the amount of the proportion of the sum for which the defaulting trustees are liable, and

to which, in part payment of that dividend, the claimant would have a right to have a personal decree against them. The objection to the right of the arbitrator to take these accounts is answered by that which is indisputably true, that without doing so justice cannot be done. No award can be made, and the Act will not merely be a dead letter, but something worse; for, affecting and intending to create a tribunal of competent and exclusive jurisdiction, it has not only failed to do so, but has shut out and precluded an appeal to any other. The conclusion I have arrived at avoids all this mischief by making it the duty of the arbitrator fully to investigate the affairs of these banks, to ascertain their liabilities and their assets, and to make such decisions as may exactly effectuate the legal right of the party complaining. This detailed exposition of the arbitrator's duties and powers must be kept in view in the consideration of the questions which arise as well on the demurrers as on the motion for a new trial. As to the demurrers, the defendant appears to me to have failed to show that the replications are bad. The defendant's counsel, however, replied that the declaration is bad, because the arbitrator had no right to make an award against him personally. As I think the arbitrator might by the course of inquiry, and in the state of facts I have pointed out, have made such an award as is pleaded in the declaration, I think the objection to the declaration is invalid, and that the demurrer to the replications should be overruled; but this objection is still open to doubt, the grounds of which I need not state, as the substantial merits of the case are involved in the motion to enter a verdict for the defendant on the plea of *nil debet*. From this the award itself is fully before us, as well as the evidence relied on as impeaching it. The award is to this effect, that a dispute has arisen between the plaintiff and the trustees and managers of the bank with respect to the sum of 27*l.* 9*s.*, deposited by him previous to August 9, 1854, and that the said dispute had been referred to the barrister, the arbitrator appointed pursuant to the Act of 7 & 8 Victoria. It then recites that he had examined the claim so made on the trustees and managers and the books of the institution, and finds that ten persons whom it names are trustees, and that eleven others also named are managers of the bank; and the arbitrator then awards that the said trustees and managers in their acts and duties, as such, have been guilty of wilful neglect and default, and the arbitrator awards that

the said trustees and managers shall pay the plaintiff on a day and place named 27*l.* 9*s.* in full of all claims which he has on the trustees and managers of the bank. This award is dated June 19, 1848. It appeared in evidence that Mr. Pratt came to Tralee on April 19 or 20, 1848. He sat for some days in the grand jury room, and was occupied in investigating the affairs of the bank and the claims of the depositors. On April 21 Mr. Pratt states that he issued a circular note to the trustees and managers, including the defendant, and sent it to them. That circular is in these words:—"Tralee, April 21, 1848. Your name appearing in the books as one of the trustees of the Savings Bank in Tralee, I have to request your attendance at the Court House on Tuesday, April 25, at one o'clock, respecting certain claims made on the trustees and managers." He states that many of the persons to whom the notice was addressed, and amongst them the defendant, attended the meeting, and that he stated to them that he would be in attendance next day to receive the claims of depositors; that he accordingly did attend for three or four days, and the depositors made their claims on slips of paper; the defendant also attending and assisting, having been assured by him that by doing so he would not incur any liability beyond what he would incur if he had not done so. He further stated that he gave no notice in writing at the office of the bank of his intention to adjudicate on the claims of the depositors, and that though the circular of the 21st recited that certain claims had been made on the trustees and managers of the bank, no such claims had in fact been made before the issuing of it. I need not remark that it is essential to the validity of an award, as indeed it is to that of every judicial proceeding, that the party to be bound by it shall have the notice of it which the law requires. I may extend the remark to the necessity of notice to all those who from their joint liability may have an eventual interest in seeing that others as well as they themselves have had such notice as to make the award binding on all. Now let us see: had all or any of these parties the notice to which the Act entitled them? It says, "If a dispute shall arise, it shall be referred in writing to the barrister, who shall have power to proceed *ex parte*, on notice in writing left or sent to the office." According to the evidence I have stated not one of these directions was pursued. There was not any notice in writing of any kind sent to or left at the office. The circular of the 21st was not left or sent there,

and if it had been it was written and delivered before any dispute arose; and the statement in it that certain claims had been made is admitted by Mr. Pratt not to have been true. So that if a claim were equivalent to a dispute between the claimant and the trustees, none had been made at all when the circular issued, nor was any demand made in writing until after Mr. Pratt had commenced his inquiry, when by his directions the depositors filed slips of paper stating the amount of their demands. There seems, therefore, to have been in all these several respects an omission to comply with what the law prescribed as essential to the jurisdiction of Mr. Pratt. I think it impossible to treat these as omissions of mere matter of form. The case before us is but one of a vast number of awards, all the result of an investigation of three or four days, making every trustee and manager, whether absent or present, liable to pay every depositor twenty shillings in the pound. There never in any single instance has been any written notice or specification to any of them of the facts or grounds on which they have been held to be responsible. It is impossible, in my opinion, to attribute to an award made under such circumstances the final and binding character which it would possess if the provisions of the Act had been regarded and pursued. It has been argued, that however objectionable this award may be, in the case of the trustees who did not appear, it is not competent to the defendant and those who appeared before Mr. Pratt, and attended and assisted at the investigation, to object that they had not notice, for that they had notice in fact when the written claim was signed and filed. Whatever might be the weight of this argument, and whether it would have been just to proceed to award against one when all, as is said, were liable, are considerations from which, as it appears to me, the plaintiff is precluded by the evidence of Mr. Pratt, from which it is manifest that the defendant was led to believe from that gentleman's assurance that, so far as regarded him and the other attending trustees, their presence and assistance was not to affect them prejudicially. This to my mind is the plain meaning of the intimation to him, and it would therefore be contrary to good faith to bind or affect them by acts done in reliance upon this assurance. For these reasons I think we are bound to give judgment for the defendant, and to order a verdict to be entered for him on the plea of *nil debet*. This determination I should have regretted if I had found that in fact the

arbitrator had gone through the due course of inquiry, by the result of which alone he could have been warranted in awarding that the defendant was indebted to the plaintiff and the other depositors in the whole amount of their deposits. But as far as I can judge this conclusion was arrived at as the consequence of a very large deficiency of the bank funds, without inquiry into the causes of that deficiency, without ascertaining to whose misconduct it was attributable, and without taking the accounts necessary to establish the right of the plaintiff to be paid twenty shillings in the pound by the defendant as his personal debtor.'

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